

Ports, Piracy and Maritime War

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Ports, Piracy, and Maritime War

Piracy in the English Channel and the Atlantic,
c. 1280–c. 1330

By
Thomas K. Heebøll-Holm



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2013



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Cover illustrations: The Battle of Sandwich, 1217. Matthew Paris, *Historia Maior* (CCC MS 16, f. 52r.) With kind permission of the Parker Library, Corpus Christi College.

Library of Congress Cataloging-in-Publication Data
Heebøll-Holm, Thomas K.

Ports, piracy, and maritime war : piracy in the English Channel and the Atlantic, c. 1280–c. 1330 / by Thomas K. Heebøll-Holm.

pages cm. — (Medieval law and its practice ; volume 15)

Includes bibliographical references and index.

ISBN 978-90-04-23570-0 (hbk. : alk. paper) — ISBN 978-90-04-24816-8 (e-book) 1. Piracy (International law)—History—To 1500. 2. Law, Medieval. 3. Piracy—English Channel region—History—To 1500. 4. Piracy—North Atlantic Region—History—To 1500. I. Title.

KZ7212.H44 2013

364.16'4—dc23

2013005357

This publication has been typeset in the multilingual “Brill” typeface. With over 5,100 characters covering Latin, IPA, Greek, and Cyrillic, this typeface is especially suitable for use in the humanities. For more information, please see www.brill.com/brill-typeface.

ISSN 1873-8176

ISBN 978-90-04-23570-0 (hardback)

ISBN 978-90-04-24816-8 (e-book)

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This book is printed on acid-free paper.

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PREFACE

I have never been a big fan of pirates. Yet here I am having written a doctoral dissertation and now a book on medieval pirates. How did that come about? Well, my *Magister artium* dissertation at the University of Copenhagen was about Danish warfare in the twelfth century. A major source for that dissertation was Saxo Grammaticus' *Gesta Danorum*. To my astonishment in that chronicle (and other twelfth century Danish sources), Saxo happily described both enemies and protagonists as pirates. Indeed, even Saxo's patron and one of the main protagonists of the chronicle, Archbishop Absalon of Lund, was described as conducting piracy. This collided with my basic understanding of pirates as bandits at sea diametrically opposed to the state and its agents of order, justice and peace. It turned out that Saxo's use of the term pirate was contingent on the Danes' past as victorious Vikings. Thus Saxo's pirate terminology might be perceived of as a Scandinavian particularism isolated to a specific time and situation in Scandinavian history. Yet when I turned to French and English sources from the twelfth and thirteenth century I discovered to my astonishment that chroniclers from these countries also used the term pirate in a more ambiguous way than one would have expected.

Furthermore, I found the literature on the subject somewhat lacking. So, like Marc Bloch's ogre I felt that I had caught the scent of a meaty prey and I engaged the subject with voracious appetite. After having finished my *magister artium* in 2007, I decided to follow my "gut" and apply for a PhD. position to explore how piracy and pirates were perceived of in medieval England and France. A fortnight after having applied for the position and a stipend to finance the research, Somali pirates hijacked the Danish cargo ship, *Danica White*, in the Gulf of Aden. The media attention and the public uproar were immense. In Denmark—as well as globally—piracy was thought a thing of the past, yet here was a true piratical hijacking at the beginning of the twenty-first century. In the ensuing years, piracy has regrettably become an increasing scourge on maritime life. Thus my research for the dissertation and its revision which became this book was done on the backdrop of the global rise of piracy. The analyses and conclusions of the book do not claim universal application, nor were they intended to. It is a study of a practice in the Middle Ages that has traditionally received scant attention, but which seems to have had more

importance than hitherto acknowledged. Nevertheless, it is my hope that this book will contribute to an understanding of the phenomenon that is piracy, how it emerges, what causes it, what its mechanisms are, how it is perceived by victims, governments and the pirates themselves and, lastly, how one prevents it.

I owe a debt of gratitude to a number of people and institutions. Firstly, I would like to thank the Danish Research Council for Culture and Communication (FKK) for funding this research. Throughout the course of the writing of the dissertation which eventually became this book, I have relied on the advice and support of several people. First and foremost I would like to thank my supervisor, Nils Hybel, who during my studies at the University of Copenhagen has always given me very sound advice, while granting me the freedom to pursue my own research interests. His longstanding confidence in my abilities has been a source of real solace. I would also like to thank Michael H. Gelting with whom I have spent many inspirational nights discussing topics of medieval history. I would especially like to thank him for his invaluable assistance in transcribing various documents for this book. Needless to say, any errors in the transcriptions are completely my own. I would also like to thank the evaluation board of my dissertation and especially the chairman, Vincent Gabrielsen. During the preparation of this book, Gabrielsen offered very sound and valuable advice on how to understand and treat pirates and piracy in a theoretical perspective. His advice has much improved that part of my analysis. Marcella Mulder and Marjolein Schaake at Brill should also be thanked for guiding me with sure hands through the publication process.

My own special thanks go to my friends and colleagues, Lasse Sonne and Mia Münster-Swendsen whose critical and valuable advice has been a huge help in the discussion of various complex aspects of this dissertation. Likewise I would like to thank Guilhem Pépin who was kind enough to provide me with extracts from the online Gascon Rolls' project prior to their publication. David Bloch should also be thanked for his help with the interpretation of various Latin texts, and Tiffany D. Vann Sprecher for her help in checking my translations from Latin and French into English. I should likewise thank my old English teacher, Peter W. Carlsen, for his corrections of my English. Of course, all remaining linguistic errors are my own. I owe a debt of gratitude to my family, whose encouragements over the years have been immensely important to me. I would especially like to thank my parents for their generous financial support, which provided

me with the opportunity to learn French, an indispensable proficiency for the making of this study. Finally, I owe my greatest debt of gratitude to my wife, Ulla, and my daughters, Alicia and Elina. Their love and patience with me in the sometimes very difficult life of the writing of this book cannot be praised enough. This book is dedicated to them.

ABBREVIATIONS

MANUSCRIPT DOCUMENTARY SOURCES

<i>TNA</i>	The National Archives, London
C 47	Chancery Miscellanea
C 61	Gascon Rolls
SC 8	Special Collections
<i>ANF</i>	Archives Nationales de France, Paris
J 631	Layettes des Trésors des chartes

PRINTED SOURCES

<i>Actes du Parlement</i>	<i>Actes du Parlement de Paris</i> , 2 vols, ed. Edgard Boutaric (Paris, 1863 & 1873).
<i>Annales Dunstaplia</i>	<i>Annales Prioratus de Dunstaplia</i> in <i>Annales Monastici</i> , vol. 3, ed. Henry R. Luard (London, 1866).
<i>Annales Londonienses</i>	<i>Annales londonienses</i> in <i>Chronicles of the reigns of Edward I and Edward II</i> , vol. 1, ed. William Stubbs (London, 1882).
<i>Annales Oseneia</i>	<i>Annales Monasterii de Oseneia</i> in <i>Annales Monastici</i> , vol. 4, ed. Henry R. Luard (London, 1889).
<i>Annales Wigornienses</i>	<i>Annales Prioratus de Wigornia</i> in <i>Annales Monastici</i> , vol. 4, ed. Henry R. Luard (London, 1889).
<i>Bury St. Edmunds</i>	<i>The Chronicle of Bury St Edmunds 1212–1301</i> , ed. & transl. Antonia Gransden (London, 1964).
<i>CCR</i>	<i>Calendar of Close Rolls</i> (London, 1892–1963).
Champollion	<i>Lettres de rois, reines et autres personnages des Cours de France et d'Angleterre, depuis Louis VII jusqu'à Henri IV: tirées des archives de Londres par Bréquigny et publiées par M. Champollion-Figeac</i> , 2 vols ed. Jacques-Joseph Champollion-Figéac (Paris, 1839–1847).
<i>Chronica Majora</i>	Matthew Paris, <i>Chronica Majora</i> , 7 vols, ed. Henry R. Luard (London, 1872–1883).
<i>Chronographia</i>	<i>Chronographia Regum Francorum</i> , 3 vols, ed. H. Moran-villé (Paris, 1891).
<i>CPR</i>	<i>Calendar of Patent Rolls</i> (London, 1891–1916).
<i>DuCange</i>	DuCange, <i>Glossarium Mediæ et infimæ latinitatis</i> , 6 vols (Paris, 1840–1846).
<i>EMDP</i>	<i>English Medieval Diplomatic Practice Part I, Documents and Interpretations</i> , 2 vols, ed. Pierre Chaplais (London, 1982).
<i>Flores</i>	<i>Flores Historiarum</i> , 3 vols, ed. Henry R. Luard (London, 1890).

<i>Foedera</i>	<i>Foedera, Conventiones, Litterae et Acta Publica</i> , 4 vols, ed. Thomas Rymer, rev. ed. by A.F. Clarke, F. Holbrooke & J. Coley (London, 1816–69) (TannerRitchie Publishing electronic version, 2006).
Froissart	Froissart, <i>Oeuvres de Froissart</i> , vols 3, 6 & 10, ed. Kervyn de Lettenhove (Osnabrück, 1967).
Geffroi de Paris	Geffroi de Paris, <i>Chronique Rimée</i> in <i>Recueil des historiens de Gaule et de la France</i> , vol. 22, eds Natalis de Wailly & Léopold Delisle (Paris, 1865).
Guiart	Guillaume Guiart, <i>La Branche des Roys lignages</i> in <i>Recueil des historiens de Gaule et de la France</i> , vol. 22, eds Natalis de Wailly & Léopold Delisle (Paris, 1865).
Guisborough	Walter of Guisborough, <i>The Chronicle of Walter of Guisborough</i> , ed. Harry Rothwell (London, 1957).
Langtoft	Peter Langtoft, <i>The Chronicle of Pierre de Langtoft</i> , ed. T. Wright (London, 1868).
Nangis	Guillaume de Nangis, <i>Chronicon</i> in <i>Receuil des historiens des Gaules et de la France</i> , vol. 20, eds Pierre C.F. Daunou & Joseph Naudet (Paris, 1840).
<i>Olim</i>	<i>Les Olim</i> , 3 vols, ed. Jacques-Claude Beugnot (Paris, 1839–1848).
<i>ORF</i>	<i>Ordonnances des Roys de France de la troisième race</i> , vols 1 & 2, eds Eusèbe de Laurière and Denis-François Secousse (Paris, 1723).
Rishanger	William Rishanger, <i>Chronica et annales</i> , ed. Henry T. Riley (London, 1865).
<i>RG</i>	<i>Rôles Gascons</i> , 4 vols, eds Francisque Michel et al. (Paris & London, 1885–1962).
<i>Saint-Sardos</i>	<i>The War of Saint-Sardos (1323–1325)</i> , ed. Pierre Chaplais (London, 1954).
Trevet	Nicolas Trevet, <i>Annales sex regum Angliae</i> , ed. T. Hog (London, 1845).

A NOTE ON CURRENCY

Money in England was normally counted in pence, shillings (each worth 12 pence) and pounds (each worth 20 shillings or 240 pence). A coin called the *mark* was also in use. A *mark* was worth two-thirds of a pound, i.e., 13 shillings and 4 pence.

Sums are given in the form £ for pounds, s. for shillings and p. for pence.

In France, several currencies were in use. For this book only the *livres tournois* and the *livre paris* are important. 4 *livres paris* was equivalent to 5 *livres tournois*. It should be noted that the value of the French coins varied somewhat in the period studied due to governmental devaluations.

In the book, the sums for these monies are given in *l.t.* for *livres tournois* and *l.p.* for *livres paris*.

In the period from c. 1280–c. 1330, 1 pound sterling was roughly equivalent to 4 *livres paris* or 5 *livres tournois*.

Sources: Prestwich, Michael, *Plantagenet England 1225–1360* (Oxford, 2005), Strayer, Joseph R., *The Reign of Philip the Fair* (Princeton, 1980), Sumption, Jonathan, *Trial by Battle* (London, 1999), and Vale, Malcolm, *The Origins of the Hundred Years War* (Oxford, 2004).

CHAPTER ONE

INTRODUCTION

Piracy was an endemic problem in the waters of northern Europe in the Middle Ages. This phenomenon has traditionally been included in studies of military and commercial history of medieval northern Europe. However, pirates and piracy as an isolated subject has received very little attention. For military historians, piracy and pirates were auxiliaries to the royal navies during wars, where they supplied man-power to the warring kings and harassed enemy traffic, especially supply lines. In peace time, they were criminals who had to be exterminated for peace and trade to resume. Thus, military historians have primarily been interested in pirates from the viewpoint of the military institutions. In commercial history, piracy has been treated as a “natural” hazard at sea akin to storms. Both were potential natural disasters which had to be included in the risk assessment of a commercial endeavour. However, all other things being equal, this subject was not of great concern for commercial historians, since it was assumed that piracy had little over-all impact on maritime trade.

Furthermore, both disciplines of medieval history have viewed the phenomenon of piracy strictly from the perspective of rulers and governments. The study of piracy and pirates in northern Europe in the Middle Ages from the perspective of the pirates themselves has received scant attention. However, to understand the phenomenon and its implications for military, commercial and other disciplines of medieval history, one has to study the pirates themselves. In this book, I argue that piracy and pirates can only be understood and interpreted in relation to the functions they supplied to their local maritime communities. I hope to demonstrate that piracy and pirates were not criminals who ought to be eradicated, nor were they merely a “natural” hazard. Rather, pirates and piracy were an intricate part of both the military and the commercial world in the Middle Ages. Indeed, the traditional state-based view of pirates as criminals or potential privateers obscures the much more nuanced phenomenon of piracy and its relationship with society, war and trade. I thus hope to break new ground by analysing the pirates on their own terms, rather than through a governmental perspective.

CICERO AND SAINT AUGUSTINE

In *De Officiis*, Cicero wrote that: “a pirate is not included in the number of lawful enemies, but is the common foe of all the world; and with him there ought not to be any pledged word nor any oath mutually binding”, and in *The Verrine Orations* he likewise stated that: “You [Verres] behaved just as the pirates are wont to behave. They are the general enemies of all mankind”.¹ The sum of these quotations is that pirates are the enemy of all. In many studies of piracy, Cicero’s remarks on pirates are quoted as evidence of the inherent inhumanity of the pirate from Antiquity to the present. Accordingly, they were literally outlaws, meaning unprotected by law, and one was not bound to keep a promise given to them. The significance of this condemnation of the pirate is explained by Daniel Heller-Roazen thus:

some . . . fall outside of this collectivity [of the fellowship of the human species]. They are individuals strikingly unlike all others: people who, while capable of speech and reason, may not be said to unite in any lawful community; people who, while committing acts that are wrong, may not be defined as criminals: people, finally, who, while often foreign and aggressive may not be accorded any of the many rights of enemies. Cicero names such people ‘pirates’ . . . For a pirate is not included in the number of lawful enemies, but is the common enemy of all. With him there ought not to be any pledged word nor any oath mutually binding. . . . ‘The common enemy of all’ (*communis hostis omnium*), he cannot be considered a criminal, because he does not belong to the city-state; yet he also cannot be counted among the foreign opponents of war, since he cannot be ‘included in the number of lawful enemies’. He moves, as Cicero presents him, in a region in which duties no longer hold.²

The studies which promote this view are primarily those concerned either with the Roman Empire or the emerging global European empires in the seventeenth century.³ This is no coincidence, since Cicero’s condemnation

¹ “nam pirata non est ex perduellium numero definitus, sed communis hostis omnium: cum hoc nec fides nec ius iurandum esse commune”, Cicero, *De Officiis*, ed. William Miller (London, 1968), Book III, 29, “Fecisti item ut praedones solent; qui cum hostes communes sint omnium.” Cicero, *The Verrine Orations*, ed. L.H.G. Greenwood, 2 vols (London, 1935), vol. 2, II. IV. 9 (§21).

² Heller-Roazen, Daniel, *The Enemy of All* (Cambridge, 2009), p. 16.

³ For instance, Andersen, Lars E., “Piracy in the Gulf of Aden: Reflections on the concepts of piracy and order,” in N. Hvidt and H. Mouritzen, eds, *Danish Foreign Policy Yearbook 2009* (Copenhagen, 2009), pp. 87 and 91, Ormerod, Henry A., *Piracy in the Ancient World* (Liverpool, 1978), pp. 54–55, to a certain extent Mollat, Michel, “De la piraterie

of pirates was formulated at a time of an emerging hegemonic power in the Mediterranean, namely the Roman Empire. Cicero's condemnation was repeated by philosophers during the emergence of another hegemonic power, collectively speaking, the European states in the seventeenth and especially the eighteenth century. Eventually, the thoughts of these philosophers, in combination with the increasing strength of the state, became the norm for the view on pirates. In this view pirates are parasites on the international trade.⁴ This entails a water-tight separation between the peaceful merchants and the ruthless pirates. However, like "the pirate as the enemy of mankind", this dichotomy is a result of the emerging "global" European states and is not really detectable before the eighteenth century.

I shall term this the "Ciceronean paradigm", where pirates and piracy are objectified as inherently criminal. This is a category created by a hegemonic and durable regime in a region with the power to define right and wrong and where the pirate is cast as the enemy of the commonality. Emily Sohmer Tai, a historian on late medieval piracy in the Mediterranean, argues that the force of this Ciceronean paradigm stems from "characterizations of maritime theft as piracy have often been applied to campaigns of maritime predation undertaken in the context of imperial systems in pragmatic... ways, in order to de-politicize the political identity or objectives of those who practised maritime theft".⁵ From a different perspective, the historian of Antiquity, Vincent Gabrielsen, has argued that the problem with modern scholarship on the subject of piracy is that it "subscribes to the nineteenth-century historicist assumption that there is a full correspondence between 'legitimacy' (usually vested in only one historical category, the righteous acting state), on the one hand, and rational or ethical behaviour, on the other hand".⁶

However, in the latter days of the Roman Empire, another famous quotation on pirates was formulated by St. Augustine in his dialogue between Alexander the Great and a captured pirate:

sauvage à la course réglementée (XIV^e–XV^e siècle)," *Mélanges de l'École française de Rome*, 87 (1975), 7–8.

⁴ See, for instance, Anderson, John L., "Piracy and world history," in C.R. Pennell, ed., *Bandits at Sea: A Pirates Reader* (New York, 2001), p. 82.

⁵ Tai, Emily S., "Marking Water: Piracy and Property in the Pre-Modern West," <http://www.historycooperative.org/proceedings/seascapes/tai.html> accessed on 31 January 2012.

⁶ Gabrielsen, Vincent, "Economic activity, maritime trade and piracy in the Hellenistic Aegean," *Revue des Études Anciennes*, 103 (2001), 222.

Kingdoms without justice are similar to robber bands. And so if justice is left out, what are kingdoms except great robber bands? For what are robber bands except little kingdoms? The band also is a group of men governed by the orders of a leader, bound by a social compact, and its booty is divided according to a law agreed upon. If by repeatedly adding desperate men this plague grows to the point where it holds territory and establishes a fixed seat, seizes cities and subdues peoples, then it more conspicuously assumes the name of kingdom, and this name is now openly granted to it, not for any subtraction of cupidity, but by addition of impunity. For it was an elegant and true reply that was made to Alexander the Great by a certain pirate whom he had captured. When the king asked him what he was thinking of, that he should molest the sea, he said with defiant independence: 'The same as you when you molest the world! Since I do this with a little ship I am called a pirate. You do it with a great fleet and are called an emperor.'⁷

Here the subjectivity of the term "pirate" becomes clear. The Augustinian definition is especially applicable for regions and epochs with no clear and uncontested hegemonic power.

Several newer studies on piracy in the Hellenic and Hellenistic, the medieval and the early modern periods all point to the problem in applying a Ciceronean paradigm to the understanding of pirates and piracy. Instead they argue from what I will term an Augustinian paradigm.

For the Hellenic and Hellenistic world, Gabrielsen has argued that the words pirate and piracy (or rather their principal Greek equivalents *leistes* and *leisteia*) were subjective terms used to condemn the actions of the enemy. For all intents and purposes, it was a term used to construct an image of the enemy, whether it was a rival state or insurrectionists, as an inhuman criminal. In other words, it was a subjective term used to facilitate the mobilisation and motivation to fight this enemy with all available

⁷ "Quam similia sint latrocinii regna absque iustitia. Remota itaque iustitia quid sunt regna nisi magna latrocinia? quia et latrocinia quid sunt nisi parua regna? manus et ipsa hominum est, imperio principis regitur, pacto societatis adstringitur, placiti lege praeda diuiditur. hoc malum si in tantum perditorum hominum accessibus crescit, ut et loca teneat sedes constituat, ciuitates occupet populos subiuguet, euidentius regni nomen adsumit, quod ei iam in manifesto confert non dempta cupiditas, sed addita inpunitas. eleganter enim et ueraciter Alexandro illi Magno quidam comprehensus pirata respondit. nam cum idem rex hominem interrogaret, quid ei uideretur, ut mare haberet infestum, ille libera contumacia: quod tibi, inquit, ut orbem terrarum; sed quia id ego exiguo nauigio facio, latro uocor; quia tu magna classe, imperator." Augustine, *City of God*, transl. William M. Green (Cambridge, 1963), Book IV, ch. iv, pp. 16–17. This passage may originally have been formulated by Cicero in *De re publica*, 3. 14. 24., see Cicero, *De Re Publica*, De Legibus, transl. Clinton W. Keyes (Cambridge, 1961), pp. 9–11.

resources.⁸ However, the act of piracy (waterborne plunder) was by no means an inherently reprehensible action, either for merchants or for the state issuing condemnations of the enemy's actions.⁹ The maritime communities who were victims of piracy also enjoyed economic prosperity because of the actions of their own pirates.¹⁰ Thus, piracy was only criminal when it was the enemy who engaged in it. Indeed, until the fourth century BC the pirate was not an inherently bad person; for instance, Aristotle considered piracy to be one of several natural ways of making a living.¹¹ Thus, Cicero's condemnation of pirates in the first century BC was the pinnacle of a development over several centuries of the pirate from a general plunderer to an enemy deprived of the natural "rights" of humanity, a development made possible by the establishment of a Roman hegemony in the Mediterranean.

A fundamental problem in relation to the definition of piracy was the distinction between criminal violent plunder and legitimate spoils of war. In Antiquity, the plunder of defeated enemies during war was a perfectly acceptable action. Whereas the defeated enemies might see the plunder as theft, for the victors it was the legitimate acquisition of booty.¹² This same approach to warfare was present in medieval Europe, where the Vegetian paradigm for warfare seems to have held sway. The core of this paradigm is that it is preferable to subdue your enemy by famine, raids and terror than to confront him on the battlefield. The cornerstone in Vegetian warfare was exactly plunder, both to enrich oneself, but also as a tool to terrorise one's opponent into submission, surrender or negotiations.¹³

⁸ Gabrielsen, Vincent, "Piracy and the slave-trade," in A. Erskine, ed., *A Companion to the Hellenistic World* (Malden, 2003), pp. 398–399.

⁹ For a similar view on piracy in the Mediterranean in the Middle Ages, see Burns, Robert I., "Piracy as an Islamic-Christian interface in the thirteenth century," *Viator*, 11 (1980), 165.

¹⁰ Gabrielsen, "Economic activity," pp. 221–222.

¹¹ Ormerod, Piracy, p. 69, Souza, Philip de, *Piracy in the Graeco-Roman World* (Cambridge, 1999), p. 18.

¹² Gabrielsen, Vincent, "Warfare and the state," in P. Sabin et al., eds, *The Cambridge History of Greek and Roman Warfare*, (Cambridge, 2007), I, 250.

¹³ Vegetius, *Vegetius: Epitome of Military Science*, transl. N.P. Milner (Liverpool, 2001), p. 116. The concept of Vegetian warfare is disputed, however. In *Journal of Medieval Military History* vols 1 and 2, Clifford Rogers and Stephen Morillo have doubted the pervasiveness of the Vegetian warfare while John Gillingham has defended it. Rogers, Clifford J., "The Vegetian science of war," *Journal of Medieval Military History*, 1 (2003), 1–19, Morillo, Stephen, "Battle seeking: The contexts and limits of Vegetian strategy," *Journal of Medieval Military History*, 1 (2003), 21–37, Gillingham, John, "'Up with orthodoxy!' In defense of Vegetian warfare," *Journal of Medieval Military History*, 2 (2004), 149–158. While medieval

The use of organised violence in this manner permeated medieval society from top to bottom. Much of the piracy that I will present in this book should be understood in this line of thought, that is, as vindictive raids, organised plunder and the destruction of the possessions of commercial rivals.

Medieval maritime studies have also reached this conclusion. N.A.M. Rodger has argued that it was impossible to distinguish hostile from peaceful trade and trading vessels in the Middle Ages. He states that peaceful trade was almost non-existent, not the least due to the fact that the sea was regarded as an area beyond laws and treaties. In this environment, peace or war between kingdoms meant little, and a ship at sea always had to be vigilant, since piracy abounded. Whereas medieval jurists agreed that technically there was such a thing as piracy (that is, criminal violent plunder at sea), in practice an agreed definition was lacking. The reaction of the English Crown to this use of violence was ambiguous. On the one hand, piracy was an integrated part of maritime trade, and it served the purpose of training the mariners in maritime war to the benefit of the king when he went to war. On the other hand, piracies against neutrals and allies continually disrupted English foreign policy. Though the public did not care much if a foreigner got assaulted, it posed a diplomatic problem for the kings. This meant that only strong kings had the power to suppress piracy whereas weak kings had to tolerate it.¹⁴

In *The Medieval Sea*, Susan Rose also notes the problem of perceiving piracy as a reprehensible, criminal activity in the Middle Ages. She asserts that the first problem for a historian studying medieval piracy is that the contemporary definition of piracy was loose and vague. Furthermore, since piracy essentially occupied a grey area between theft, semi-official activity and low-level commercial warfare, it is hard to tell where crime ended and reprisals and private war began.¹⁵ Like Rodger, Rose questions the notion of a distinction between peaceful trade and warlike piracy. In *Medieval Naval Warfare 1000–1500* she writes:

It is perhaps unsafe to say that ships engaged in aggressive activities were always clearly acting with the knowledge of a ruler. The distinction between outright piracy and the actions of privateers, conveniently described by the phrase 'guerre de course' was blurred and might be a respected renowned

warfare does indeed seem to have been more nuanced than just being campaigns of plunder, Vegetian warfare still seems to have been the cornerstone of medieval warfare.

¹⁴ Rodger, N.A.M., *The Safeguard of the Sea* (London, 2004), pp. 115–116.

¹⁵ Rose, Susan, *The Medieval Sea* (London & New York, 2007), pp. 123–125.

naval leader at one point in his career and the leader of at least quasi-piratical raids at another.¹⁶

Thus, both of these English historians note the problem of distinguishing piracy from warfare and reprisals. Accordingly, they both object to the Ciceronean paradigm that has as its claim to universalism the protection offered by the state against lawless robbers.

In French maritime historiography, Marc Russon has also questioned the Ciceronean paradigm. Based on evidence from the fifteenth century, the influential maritime historian Michel Mollat wrote, according to the Ciceronean paradigm, that pirates were “the shipmasters that respected no law, spared no one, and who escaped all control”,¹⁷ but Russon points out that this definition is too restrictive and is only applicable for a small number of medieval pirates. Most of those arrested and judged for piracy do not fall within this definition. Rather, “pirate” was simply a term employed by victims of those who had attacked them, irrespective of whether the context was of open warfare or private war, and it was quite often used to criminalise one’s maritime rivals.¹⁸ What Russon essentially argues is that piracy as an act and as a term in the Middle Ages was subjective and cannot not be confined to an objective, juridical category. At most, it could be used as a term to vilify one’s enemy. In effect, an Augustinian perspective.

In sum, scholars increasingly stress the subjectivity of the term pirate and question the classic dichotomy between legitimate force wielded by the governments and the criminal violence done by pirates. However, while the above-mentioned “Augustinians” have noted the subjectivity of the term “pirate”, they then tend to concentrate on piracy in relation to either trade or war. Consequently, they have seen the issue of piracy (mostly) from the viewpoint of the governments and their naval policies.

For medieval studies, this is probably due to the fact that most historians seem incapable of conceiving of the Anglo-French ports and the mariners as being able to conduct their own “foreign” policies, including waging private war, independently of the kingdoms. Rather, their view of politics

¹⁶ Rose, Susan, *Medieval Naval Warfare 1000–1500* (London & New York, 2002), p. 1.

¹⁷ “maîtres de navires qui ne respectent aucune loi, n’épargnent personne et échappent à tout contrôle sont des pirates.” Mollat, “Piraterie sauvage,” p. 17.

¹⁸ “Les pirates étaient en fait pour chacun ceux qui l’avaient attaqué, les ennemis, que l’on soit en état de guerre ouverte ou couverte, tout simplement ceux qui étaient considérés souvent de toute antiquité comme des rivaux sur mer. La justice, n’était pour beaucoup de dirigeants politiques qu’un moyen parmi d’autres de lutter contre les agressions extérieures.” Russon, Marc, *Les Côtes guerrières* (Rennes, 2004), pp. 303–304.

at sea is binary. They assume that ports were only interested in trade and that they left all handling of conflict to the kings.¹⁹ For instance, J.C. Ford and K.L. Gruffydd claim that piracy surged in the intervals between royal wars in the fourteenth and fifteenth centuries and that this surge was directly related to royal war. Indeed, Ford argues that piracy in peacetime should often be seen as proxy wars between the kings.²⁰ Whereas this may be true for some periods of the Hundred Years War, it does not allow for a more detailed understanding of piracy as a phenomenon in a non-hegemonic international order. It rather resembles a transposition of the situation around 1700, when piracy indeed surged when the kings made peace, and the mariners, previously employed as privateers, suddenly lost a valuable source of income. Some maritime historians have, however, noted the piracies and the bellicosity of the mariners,²¹ but this has only been analysed in the context of the Cinque Ports and Great Yarmouth's conflict in the latter part of the thirteenth century and the first decades of the fourteenth century.²² To my knowledge, no other medieval maritime conflict outside the Mediterranean has been the subject of a detailed analysis.

Thus, the recognition of the subjectivity of the term "pirate" has opened the way for new questions not sufficiently explored by historians to be considered. This is where I hope to make a contribution to the research, by changing the focus from kings to mariners and ports. Contrary to the usual studies on piracy, which are primarily seen from the perspective of the governments, the focus of this study is on the pirates and their communities, in other words the mariners and the ports as agents in a politically ungoverned space. It can therefore be assumed that medieval pirates should be understood in light of the Augustinian paradigm, where pirates and piracy are seen as subjective terms rather than as an

¹⁹ See, for instance Ward, Robin, *The World of the Medieval Shipmaster* (Woodbridge, 2009) and Krieger, Karl-Friedrich, *Ursprung und Wurzeln der Rôles d'Oléron* (Cologne & Vienna, 1970).

²⁰ Ford, J.C., "Piracy or policy: The crisis in the Channel, 1400–1403," *Transactions of the Royal Historical Society*, 5th Series, 29 (1979), 63–78, Gruffydd, K.L., "Piracy, privateering and maritime Wales during the later Middle Ages," *Cymru a'r mor*, 24 (2003), 24–25.

²¹ See, for instance, Runyan, Timothy J., "Naval logistics in the late Middle Ages: The example of the Hundred Years' War," in J.A. Lynn, ed., *Feeding Mars* (Boulder, CO, 1993), p. 93.

²² See Brooks, Frederick W. "The Cinque Ports' feud with Yarmouth in the thirteenth century," *The Mariner's Mirror*, 19 (1933), 27–51, and Sylvester, David. G., "Communal piracy in medieval England's Cinque Ports," in N. Christie and M. Yazigi, eds, *Noble Ideals and Bloody Realities* (Leiden, 2006), pp. 163–177.

objective, government-defined criminal category as expressed in the Ciceronean paradigm. It should be noted, though, that both the Ciceronean and the Augustinian perspectives were present in the Middle Ages. While the Ciceronean perspective rests on a unitary and agreed definition of who can legitimately use violence, the victims of piracy surely felt that they had been victims of a crime and consequently saw pirates as a most heinous enemy meriting harsh punishments. However, to understand the phenomenon in the Middle Ages, a period with disputed and negotiable rights to the legitimate use of violence, the use of a Ciceronean perspective would prohibit an understanding of why people resorted to piracy.

PRELIMINARY DEFINITIONS

Before progressing further it is necessary to briefly define what is meant by pirates and piracy, and to determine the difference between pirates and corsairs or privateers.

The best definition I have seen yet is by Philip de Souza:

Piracy is a term normally applied in a pejorative manner. Pirates can be defined as armed robbers whose activities normally involve the use of ships. They are men who have been designated as such by other people, regardless of whether or not they consider themselves to be pirates.²³

For my studies, however, I shall expand a bit on de Souza's definition. My definition of the act of piracy (and not the person, which is amply defined by de Souza) is thus:

Piracy is the seaborne appropriation or destruction of goods and values in a maritime (high seas, estuaries, coasts) or a riverine space through violence or threats of violence. Piracy requires that the agents consciously attack their victim in a situation arisen either by misfortune (for example, ship stuck in a port because of bad weather) or by premeditated action (for example, lying in wait).

I do not consider wreckers to be pirates, since they are land-based and wholly dependent on a natural disaster in order for them to carry out the plunder. While wreckers may try to alter the situation in their favour—for instance by “false” lighthouses—they lack the fundamental prerequisites of piracy, namely that pirates are seaborne, and that they actively and at personal risk undertake an armed operation with the aims of plunder.

²³ Souza, *Piracy*, p. 1.

Thus, I will restrict myself to the instances where people actively sought out and plundered their victims, who would otherwise have enjoyed a safe voyage, if the pirates had not attacked them.

This brings me to the pirate's Siamese twin, the corsair or the privateer. In this book, I shall use the term "privateer" for private mariners licensed by a government in wartime to hurt the enemies of the realm during war. It should be noted, however, that the closest one comes to the term "privateer" in medieval languages is *cursarius*. It was used in the Middle Ages as a novel expression specifically to separate the pirate from the government-licensed sea warrior.²⁴

Michel Mollat has argued that in the Middle Ages the difference between pirates and privateers was that piracy was an action deprived of any institutional character and which was conducted indiscriminately against all ships at sea. Accordingly, it did not call for any justification other than the mere "might is right", and consequently the pirate was accountable to no authority. In contrast, privateering (*la course*) was conducted with the permission of the public authorities from the port where the privateer hailed. It was carried out either as reprisals for acts committed by criminals at sea or their presumed accomplices or as acts of war against people from an enemy state. As justification, the privateer were supplied with letters of marque from the government.²⁵

Mollat here identifies three ways of practising rapacious violence at sea in the Middle Ages: firstly, as a criminal who attacks and plunders indiscriminately at sea; secondly, as an act of reprisal against pirates or their fellow-citizens; and thirdly, as a privateer, that is, a private citizen commissioned by the state to wage war against its enemies. Mollat's definition

²⁴ I understand that this term in English is usually applied to the Mediterranean pirates of the sixteenth to eighteenth centuries, but in Mediterranean languages "corsair" merely means "privateer". Earle, Peter, *The Pirate Wars* (London, 2003), p. 39. While there was no clear term for these in Northern Europe, the Latin, *cursarius*, was an oft-used term used in the Mediterranean in the Middle Ages. For the institutional developments of privateering in the fourteenth century, see Katele, Irene B., "Captains and corsairs: distinguishing protection and aggression," in K. Friedland, ed., *Maritime Aspects of Migration* (Cologne & Vienna, 1989), pp. 87–103, Katele, Irene B., "Piracy and the Venetian State: The Dilemma of Maritime Defense in the Fourteenth Century," *Speculum*, 63 (1988), 865–889, and Tai, "Marking Water". An example of the distinction between corsairs and pirates is provided in Philippe de Mezières, *Songe du vieil pèlerin*, ed. G.W. Coopland, 2 vols (Cambridge, 1969), I, pp. 254–255 and 261. To avoid confusion amongst readers, I have, however, retained the anachronistic term "privateer" for the Middle Ages.

²⁵ Mollat, Michel, "Guerre de course et piraterie à la fin du Moyen Âge: aspects économiques et sociaux. Position de problèmes," in M. Mollat, *Études d'histoire maritime* (1938–75) (Torino, 1977), pp. 473–486.

is based on the situation in the fifteenth century, and it is rather problematic. While Mollat mentions three different types of maritime aggression, in fact he only operates with two: aggression legitimised by public authorities (the second and third) and that which is not (the first). In the centuries prior to the fifteenth, and indeed during that century as well, the kingdoms had little control over the seas and the use of rapacious violence there. Furthermore, I question the banding together of reprisals with genuine war-time commissions, since, as I shall demonstrate in chapter 5, reprisals in the Middle Ages were only authorised in peace-time and as a last resort in the restitution of goods lost to pirates.

The political scientist Janice E. Thomson's definition in this regard is more nuanced. She defines the difference between pirates and privateers thus:

Acts of piracy are distinguished from other acts of violence on or emanating from the high seas by the fact that the former 'are done under conditions which render it impossible or unfair to hold any state responsible for their commission'. *Though 'the absence of competent authority is the test of piracy, its essence consists in the pursuit of private, as contrasted with public, ends [my italics].'* Thus, the distinction between a privateer and a pirate is that the former acts under the authority of a state that accepts or is charged with responsibility for his acts, while the latter acts in his own interests and on his own authority.²⁶

This distinction is more precise, yet it is still hampered by the fact that the main dividing line is between legitimate and illegitimate aggression at sea. As the maritime historian Gonçal López Nadal has put it, the only difference between privateering and piracy was the institutional element. Otherwise, the two phenomena were practically identical.²⁷

For medieval studies, there is furthermore the problem of determining which authorities could authorise such actions. While the political philosophers of the Middle Ages argued that only a sovereign prince could wage just war, many political groups such as nobles, towns and indeed sometimes the clergy waged *de facto* war in the Middle Ages and claimed that they had sufficient just cause and authority to wage these legitimately.

In the end, the best distinction for these activities in the Middle Ages resembles the one prevalent around 1600. That was, as Peter Earle has put it, "a confused period when piracy, privateering, reprisals and 'aggressive

²⁶ Thomson, Janice E., *Mercenaries, Pirates, and Sovereigns* (Chichester, 1994), p. 22.

²⁷ Nadal, Gonçal L., "Corsairing as a commercial system," in C.R. Pennell, ed., *Bandits at Sea: A Pirates Reader* (New York, 2001), p. 125.

commerce' all existed alongside each other and are difficult to disentangle". In that period, three distinct kinds of violent, maritime action was in play:

the indiscriminate, persistent and criminal pursuit of maritime robbery; officially authorized reprisals by merchants for loss of ships or goods; and government-commissioned but privately promoted action against enemy shipping and goods in time of war. Or, to put it more simply, piracy, reprisals and privateering, three different forms of private maritime violence of which only the first, piracy, was illegal though all three were very similar in motivation and methods.²⁸

The same distinction was prevalent in Middle Ages, if only in an even more confusing state due to the relative weakness of the royal governments. I shall use the three categories distinctly from one another. Thus, I operate with pirates, with reprisal-takers (with or without royal authorisation) and with privateers, or royally commissioned sea-warriors.

To these considerations should be added two requisites for people having recourse to piracy:

1. That piracy appears very profitable, and/or
2. The risk of getting caught and punished for piracy is rather low.

Furthermore, piracy is never an isolated act. It is almost by definition organised "crime", since:

1. A crew needs to be organised in order for the vessel to function, and by extension the coordination of hostile acts at sea and the sharing of booty demands a formalised organisation in order for piracy to be durable.
2. There is no point in committing robbery at sea if there is no one to buy the booty. To put it bluntly, one cannot eat silver. Thus, all pirates need secure bases with allies and a network to buy the goods and provide a measure of protection.

Thus, piracy can never be treated or understood as a purely maritime operation. Rather, the intangible and inherently uncontrollable nature of the sea which, on the one hand, does not permit a territorialisation proper, on the other hand makes it impossible to live exclusively at sea

²⁸ Earle, *Pirate Wars*, pp. 21–22.

without contact with land. Thus, pirates and piracy were a part of the terrestrial world. It was here that they recruited their crews, and it was from the ports they went out and returned to sell their loot. The ports served as the nexus between land and sea. This made the ports the pirates' accomplices, and created a symbiotic relationship between pirates and ports. Indeed, as the sociologist, Anton Blok, has put it: "The more successful a man is as a bandit, the more extensive the protection granted him."²⁹

PIRATE TERMINOLOGY

Not until the sixteenth century was piracy a legal term, and not until the end of the seventeenth century was the Ciceronean paradigm wholly integrated into the discourse on pirates, who accordingly were considered to be an evil to be eradicated.³⁰

The judicial situation is reflected in the terms for pirates—or rather people conducting acts of piracy—in the medieval sources. Here the use of the terms "pirate" and "piracy" are often ambiguous or absent outright, even though the meaning of the acts described is clear enough, namely violent robbery at sea.

It has often been assumed by scholars that the image of pirates as the enemy of mankind has run in a direct line from the late Roman Republic in the formulation of Cicero to the present.³¹ For the Middle Ages, evidence for this discourse can be found in Bartolus de Saxoferrato's (1313–57) commentaries on the forty-ninth book of Justinian's *Digest*, (who in turn cites James of Arena fl. 1261–96). Here, Bartolus expressed that:

'enemies [*hostes*] are not to be compared to pirates [*pyrate*], for the latter have renounced [*diffidati*], by the law itself, the very principle of faith.' Employing a term of phrase not found before him but that was fated to have a long life in the law, Bartolus then explained, rewriting Cicero, that such unworthy opponents are most properly said to be 'the enemies of the human species' (*hostes humani generis*).³²

²⁹ Blok, Anton, *Honour and Violence* (Cambridge, 2001), p. 19.

³⁰ Rubin, Alfred P., *The Law of Piracy* (Newport, 1988), pp. 32–35, Earle, *Pirate Wars*, pp. 21 and 56, *Law and Custom of the Sea*, vol. 1, ed. Reginald G. Marsden (London, 1915), pp. 99–100, n. 1.

³¹ See, for instance, Eklöf, Stefan, *Pirates in Paradise* (Copenhagen, 2006), p. 7.

³² Heller-Roazen, *Enemy of All*, p. 103, "Bartolus de Saxoferrato, *Lucernae iuris, omnia quae extant, opera*, 11 vols (Venice, 1590–1602), *Commentaria, Tomus sextus: In secundum Digesti novi partem* (Venice 1596) f. 214v., Hostes, Additiones, a: "piratae aequiparantur hostibus fidei et principis et sunt ipso facto diffidati et possunt impune a quodlibet derobi, in

Heller-Roazen has prudently remarked, however, that the problem of distinguishing between legitimate combatants (privateers/corsairs) and robbers at sea (pirates) made it difficult to apply the Ciceronean (or more correctly, the Bartolean) distinction between the two.³³ Nevertheless, the thought of pirates constituting an especially abominable enemy with no claims to any rights whatsoever is maintained in much research. Thus, the conception of pirates as the enemy of mankind (rather than all) actually has a late-medieval origin rather than a late-Roman Republican one.

However, while legal thinkers like Bartolus contemplated the question of the status of pirates, in the sources of the thirteenth and fourteenth centuries these reflections are absent. Indeed, Claude Gauvard has pointed out that the use of Bartolus's thoughts has not been detected anywhere in French legal writing before 1375, and for the fourteenth century the influence of Bartolus in France is almost non-existent.³⁴

The closest evidence for a Ciceronean discourse is in two Church decrees. In the Third Lateran Council of 1179, it was remarked about pirates that: "There are even some who for gain act as captains or pilots in galleys or Saracen pirate vessels."³⁵ These persons were to be excommunicated for their robberies or crimes against fellow Christians, yet this referred to a Mediterranean situation and not initially to a universal one. Likewise, in the Second Council of Lyon of 1274, the Church pronounced a condemnation of pirates, only stronger this time:

Furthermore, since corsairs and pirates greatly impede those travelling to and from that Land, by capturing and plundering them, we bind with the bond of excommunication them and their principal helpers and supporters. We forbid anyone, under threat of anathema, knowingly to communicate with them by contracting to buy or sell.³⁶

auth. navigia ubi Baldi C. de fur. Item hypocritae dicuntur . . . hostes humani generis, vnde dignum est a cunctis publicum bellum contra eos indicere, secundum Iac. de Are. in oratione contra hypocritas . . .". Quoted in: Tai, Emily S., "Piracy and law in medieval Genoa: The consilia of Bartolomeo Bosco," *Medieval Encounters*, 9 (2003), p. 260, n. 7, Rubin, *Law of Piracy*, pp. 15–18.

³³ Heller-Roazen, *Enemy of All*, p. 104.

³⁴ Gauvard, Claude, "Punir le crime," in C. Gauvard, *Violence et ordre public au Moyen Age* (Paris, 2005), p. 49.

³⁵ "Sunt etiam qui pro sua cupiditate in galeis et piraticis Sarracenorum navibus regimen et curam gubernationis exercent." *Decrees of the Ecumenical Councils*, ed. Norman Tanner, 2 vols (New York, 1990), I, 223.

³⁶ "Ceterum quia cursarii et piratae nimium impediunt capiendi et spoliando transeuntes ad illam et redeuntes de illa, nos eos et principales adiutores et fautores eorum excommunicationis vinculo innodamus, sub interminatione anathematis inhibentes, ne

While this initially seems to draw on the Ciceronean discourse, this condemnation of “*cursarii et piratae*” was actually a specific one related to the situation in the Mediterranean with the ongoing crusades. The occasion for writing this decree was thus the attacks on pilgrims and the trade with Muslims. It was not a general condemnation of all pirates. Indeed, in none of the other sources for the period studied in this book have I found any reproduction of the statements of either Bartolus or the councils. It was not until 1455, with Pope Nicolas V's bull *Inhibitio contra piratas*, that there was a general ecclesiastical condemnation of pirates, in this case those on Belle-Île, and in 1475, Pope Sixtus IV issued a bull excommunicating pirates, *escumeurs de mer*, kidnappers, enemies, men of war, bandits and malefactors.³⁷

Contrary to the ecclesiastical stance on piracy, the chronicles had a different way of describing plunderers at sea. While the chronicles were just as ideological and moralising as the Church decrees—with the notable addition of an often strong patriotism—the use of the terms *pirata* and *piratica* in the Ciceronean sense was absent. Thus, despite the patriotic disposition of the chroniclers and that their chronicles were often destined for a domestic audience, they seem reluctant to use damning terms for their opponents' mariners. Furthermore, terms involving *pirat-* (both as a noun and an adjective) were more often used in a neutral *terminus technicus* sense than as a condemnation of criminals. For instance, in the twelfth century, Abbot Suger characterised the French king's forces attacking Gournay Castle on the Marne-river as fighting *piratarum more*. It was by no means pejorative, but rather referring to a waterborne military operation and fighting manner.³⁸

In the following I shall briefly examine a few significant examples of the way in which medieval chroniclers described pirates in the thirteenth and the first decades of the fourteenth century.

The first example is of Eustache le Moine. Eustache was the son of a minor Boulonnais noble. He was a runaway monk who served King John as a pirate/privateer in the English Channel in the first decade of the thirteenth century. In 1215, however, he switched to the French side and

quis cum eis communicet scienter in aliquot contractu venditionis vel emptionis.” Tanner, *Decrees*, I, 311.

³⁷ Russon, *Côtes*, pp. 337–338. See also Toureille, Valérie, *Vol et brigandage au Moyen Âge* (Paris, 2006), pp. 268–278.

³⁸ “loricati et galeati de classe, piratarum more, audacissime committunt, repellentes repellent.” Suger, *Oeuvres complètes de Suger*, ed. A. Lecoy de la Marche (Paris, 1847), p. 42.

supplied vital assistance to the French invasion of England in 1216. In the end, he was captured and immediately executed on his ship in 1217.³⁹

Unsurprisingly, the English chroniclers were not very fond of Eustache. Roger of Wendover called Eustache a “viro flagitiosissimo et piratæ nequissimo” and “Eustachius Monachus, proditor regis Angliæ et pirata nequissimus”.⁴⁰ Roger thus termed Eustache as a most vile pirate, a despicable man and a traitor. In the poem about the life of William Marshal, Eustache was also portrayed as a despicable person, especially since William was one of the young king Henry III’s most ardent supporters. In the poem it says that Eustache le Moine, “who never failed to do as much evil as possible and showed God more evil than was ever seen before, was made master of this French fleet, but then arrived his day of celebration (*feste*) for he had his head cut off”.⁴¹ Thus, the poem not only stressed the evil ways of Eustache, but in fact cast him as a blasphemer openly challenging God with his wicked ways. It then ends with an inverted version of a saint’s martyrdom, since Eustache’s celebration was in fact a celebration of divine retribution and the liberation of the Christians from his evils. The term pirate is not used here, but the meaning is clear. Matthew Paris, who after 1235 continued Roger of Wendover’s chronicle, likewise described Eustache in negative terms, while he praised his hero and source for the story, Hubert de Burgh. Matthew Paris wrote that Eustache proved himself as a master pirate, and he caused much hurt and cruelty, but the plunderer plundered so much that he ended up collecting the fruits of his wicked life.⁴² However, immediately before this passage, Matthew Paris described a desperate discussion between Hubert de Burgh, the bishop of Winchester, William Marshal and the supporters of Henry III. The terms used in this passage are quite interesting: The nobles answered Hubert de Burgh that they were neither sea-warriors [*militēs maris*], pirates nor fishermen, and thus claimed that taking to the sea would mean certain

³⁹ Cannon, Henry L., “The Battle of Sandwich and Eustace the Monk,” *The English Historical Review*, 27, (1912), 649–670.

⁴⁰ Roger of Wendover, *Flores Historiarum*, ed. H.O. Coxe, 4 vols (London, 1841–1842), IV, pp. 28–29.

⁴¹ “Eüistace li moines, cil qui unques ne quist essoines a faire mal de son poeir, e li fist Dex aparceveir plus mal engingnos ne puet estre, de ceste flotte se fist mestre; mes a cel avint sa feste, car il i ot coupé sa teste.” *Histoire de Guillaume le Maréchal*, ed. Paul Meyer, 2 vols (Paris, 1894), II, 255–256.

⁴² “Eustachium . . . existens pirata et piratarum magister, multis dampnosus fuit et cruentus; sed tandem prædo præda factus, fructus collegit viarum suarum.” *Chronica Majora*, III, 29.

death.⁴³ However, the *Annales Dunstaplia* only call Eustache a “pyrata fortissimus” (most powerful pirate) in his actions against the English, but no further condemnation is found.⁴⁴ While this initially could be read in a pejorative sense, the following will show that it could also just be a neutral description of a sea-warrior.

The French sources are more moderate in their description of Eustache le Moine. Guillaume le Breton, the chronicler of Philippe Auguste, described Eustache thus: “miles tam mari quam terra probatissimus”,⁴⁵ that is, that Eustache was a most accomplished knight at sea as well as on land, akin to Matthew Paris’s *milites maris*. Initially, this could be construed as a French attempt to avoid the criminalised term *pirata*, but le Breton wrote that Philippe Auguste asked the Poitevin nobleman, Savary de Mauléon, to supply reinforcements and that he turned up with “Pictonesque sui, quibus ars piratica nota est” (and with his Poitevins who are renowned for their skills in the art of piracy).⁴⁶ There is nothing pejorative in this description, and it supports the assumption that to a certain extent piracy was a term for a legitimate way of warfare—as long as it served a just purpose.

Returning to Matthew Paris, it becomes evident that a different word than pirate existed for warriors fighting at sea, *milites maris*. If there was a bigger emphasis on the term “pirate” in the Ciceronean meaning, would one not have avoided using it for one’s protagonists? Thus it transpires that in many instances “pirate” did not mean anything other than a warrior specialised in maritime warfare, as is shown, for instance, in the *Histoire des ducs de Normandie et des rois d’Angleterre*’s descriptions of Eustache le Moine as a knight and an ingenious sea-warrior.⁴⁷ Indeed, during the war of 1216–17, Matthew Paris described the mariners of the Cinque Ports as “piratæ regis Anglorum” (the pirates of the king of the English).⁴⁸ Bjorn Weiler has recently stressed the strongly moralising dimension of Paris’s work.⁴⁹ This makes Matthew Paris’s choice of words for describing these

⁴³ “Cui [Hubert de Burgh] responderunt [the bishop of Winchester, William Marshal and other noblemen], Non sumus milites maris, non piratæ, piscatores, vade autem tu mori.” *Chronica Majora*, III, 28.

⁴⁴ *Annales Dunstaplia*, p. 46.

⁴⁵ *Œuvres de Rigord et de Guillaume le Breton*, ed. Jean Renouard (Paris, 1867), p. 314.

⁴⁶ *Oeuvres de Rigord*, p. 260.

⁴⁷ *Histoire des ducs de Normandie et des rois d’Angleterre*, ed. Francisque Michel (Paris, 1840), pp. 167, 185 and 200–202.

⁴⁸ *Chronica Majora*, III, 26.

⁴⁹ Weiler, Bjorn, “Matthew Paris on the writing of history,” *Journal of Medieval History*, 35 (2009), 259.

acts at sea all the more interesting, for if the meaning of *pirata* was clearly negative, he would not have used the word to describe his protagonists as well.

For the 1292–93 maritime war between the Normans and the Anglo-Bayonnais (see chapter 4), it is moreover interesting that, despite the clear depiction of adversaries employing unlawful plundering operations at sea, the chroniclers refrain from using the terms *pirata* or *piratica*. Instead, most of them simply used ethno-geographical terms such as *Normanni* and *Anglicos*.⁵⁰ Some of the chronicles, as well as some of the legal and diplomatic records, sometimes specified by adding their function, *marinarios*, to the geographical denominations.⁵¹ The most specific is the *Annales Wigorniensis*, which described the Normans as “bellatoribus et nautis navium” (ship-borne warriors and mariners).⁵² Peter Langtoft includes a decidedly pejorative word, *roberie*, (see chapter 8) which, however, only described the Normans’ claim of the criminality of their adversaries and not Langtoft’s view of the justice of their claim.⁵³ Thus, while none of these accounts doubt the criminal nature of their enemies, the authors still refrained from calling them pirates.

However, the chronicles were by no means unaware of the term “pirate” and its meaning. In the *Bury St. Edmunds Chronicle*, the Genoese adventurer, merchant and pirate (and between 1294–1300, admiral of France), Benedetto Zaccaria, was praised for his defeat of Muslims in the Mediterranean in 1293: “After a pirate from Genoa called Benedict Zacharias had won a victory over the infidels in the Mediterranean and taken possession of their spoils, he sent twelve captive infidels to each of the five Christian kings, of France, England, Germany, Spain and Cyprus.”⁵⁴ Once again, we see the *terminus technicus*.

In the *Vita Edwardi Secundi*, Hugh Despenser the Younger was condemned for his piracies with the mariners of the Cinque Ports in 1321–22 when he and his father were temporarily exiled from England. Here, if

⁵⁰ *Annales Londinienses*, p. 101, *Annales Dunstaplia*, pp. 374 and 384, *Annales Oseneia*, p. 335, *Chronographia*, I, 39, *Bury St. Edmunds*, pp. 4 and 117–118, Rishanger, pp. 130–131 and 137, Flores, III, 85, Nangis, p. 574, *Foedera 1272–1307*, p. 793.

⁵¹ Guisborough, pp. 240–243, *Olim*, II, 3–8.

⁵² *Annales Wigorniensis*, p. 512.

⁵³ Langtoft, p. 200.

⁵⁴ “Habita uictoria de paganis in mari Mediteraneo quidam pirata de Ianuensibus, Benedictus Zacharie dictus, eorumque spoliis potitus cuilibet quinque regum Christianorum uidelicet Francie, Anglie, Alemannie, Hyspannie et Cypri, duodecim paganos transmisit captiuos.” *Bury St. Edmunds*, p. 118.

the Ciceronean paradigm had had its full meaning, he would probably be termed a *pirata*, yet the *Vita* instead employs a Biblical reference by calling Despensier a *belua marina* (sea monster), even though the sense plunderer of the seas is clear from the context.⁵⁵ Thus, while the condemnation is clear, the term with the Roman baggage is absent.

It was not until the second part of the fourteenth century that an increasing condemnation of pirates began to appear in the chronicles. Geoffrey le Baker described the Genovese and Norman pirates attacking the English coasts and island in the 1330s, 40s and 50s as ruthless pirates (that is, *piratas crudeles*) in the service of the French tyrant—his word for the French king.⁵⁶ However, no English mariners were described by these words, and interestingly neither was the French fleet at Sluis. Thus, le Baker seems to have employed a Ciceronean version of the term to denote criminals without any real legitimate military commission working for a criminal tyrant against the rightful king of France, Edward III. Froissart described the Normans and the Genovese prior to the Battle of Sluis thus: “These Normans and these Genovese were all *esqumeurs* and accustomed to the sea and all too eagerly went there for in all their life they had never done anything else but armed pursuit of their fortune at sea”.⁵⁷ This term, *esqumeur* (“skimmer” of the riches of the sea) was the usual French term in the fourteenth and fifteenth centuries, rather than pirate, which seems to have entered French vernacular usage at a later date.⁵⁸ Indeed, the term *esqumeur* was also used by the pirates themselves, thus hinting a self-conscious identification by the mariners of their activities. For instance, in 1344, Edward III ordered officers to inquire into the activities of one Simon de Rathby, master of the ship the *Escumer*(!) who was plundering merchants off the Isle of Wight,⁵⁹ and in the 1480s the Breton pirate (and later admiral of Portugal) Jean Coatanlem’s ship was called, somewhat ironically, *Le Cuiller* (the spoon).⁶⁰

⁵⁵ *Vita Edwardi Secundi. The Life of Edward the Second*, ed. Wendy Childs (Oxford, 2005), p. 196. This may be a reference to the Biblical sea monster, the Leviathan.

⁵⁶ Geoffrey le Baker, *Chronicon Anglie*, ed. John A. Giles (London, 1847), pp. 132, 133, 134, 135, 136, 145, 174 and 220.

⁵⁷ “chil Normant et chil Génevois estoient tout esqumeur et costumies de la mer, et trop bien en prenoient la painne, car en tout lor vivant il n’avoient fait aultre cose que poursievir les aventures d’armes sus la mer.” Froissart, III, 205.

⁵⁸ For the use of classical texts in French legal discourse, see Gauvard, Claude, “Pouvoir de l’État et justice en France à la fin du Moyen Âge,” in J.-P. Genet, ed., *Rome et l’état moderne européen* (Rome, 2007), pp. 348–351.

⁵⁹ *CPR* 1343–45, p. 388. See also Runyan, “Naval logistics,” p. 59, n. 54.

⁶⁰ Russon, *Côtes*, p. 477.

However, in the fifteenth century, in the documents concerning naval service or protection of the coasts, the French authorities mentioned that this was a fight against robbers, pirates, *escumeurs de mer* and enemies, and studies conducted by Jean Bernard on trade in Bordeaux from 1400–1550 show the following terms applied to pirates: *pilhars de mer*, *larrons de mer*, *archerobe* and *archipirate* (pillagers of the sea, bandits of the sea, arch-robber and arch-pirate).⁶¹ The same development is detectable in English sources.⁶²

The most usual term and indeed condemnation of mariners as pirates in the sources, and especially in the legal and diplomatic records, is the term *malefactor* (“wrong-doer/evil-doer”). However, malefactor was a term used for criminals in general without any difference as to whether the crime took place on land or at sea. For instance, Jean de Joinville praised the provost of Paris, Etienne Boileau, for his repression of malefactors in Paris in the 1260s:

there were so many criminals and thieves in Paris and the adjoining country that the whole land was full of them... One of the men recommended to him was a certain Étienne Boileau, who subsequently maintained and upheld the office of provost so well that no wrong-doer, thief, or murderer dared to remain in Paris, for all who did were soon hanged or put out of the way; neither parentage, nor noble descent, nor gold and silver availed to save them.⁶³

Thus, there is no connection between the Ciceronean/Bartolean revulsion against pirates and the wider term *malefactor* which in many regards seems closer in content to the Ancient Greek *leistes* (plunderer on sea as well as on land), than to *piratae*.⁶⁴

⁶¹ Bernard, Jean, *Navires et gens de mer à Bordeaux* (v. 1400–v. 1550), 3 vols (Paris, 1968), II, 774.

⁶² Rubin, *Law of Piracy*, p. 35.

⁶³ Jean de Joinville, *Chronicles of the Crusades*, transl. Margaret R.B. Shaw (London, 1963), pp. 341–342. “... il avoit tant de maulfeteurs et de larrons a Paris et dehors que tout le pais en estoit plein. [...] Si li fu enditié Estienne Boilyaue, le quel maintint et garda si la prevosté que nul malfaiteur ne liarre ne meutrier n’osa demourer a Paris, qui tantost ne feust pendu ou destruit, ne parent ne lignage ne or ne argent ne le pot garantir.” Jean de Joinville, *Vie de Saint Louis*, transl. Jean Monfrin (Paris, 1995), p. 576. See also *Foedera* 1307–1327, pp. 77–78.

⁶⁴ Ancient Greek had two words for pirate. The oldest was *leistes*, which meant armed robber or plunderer. The second word, *peirates*, is at its earliest datable to the mid-third century BC. “The derivation of *peirates* is probably from the word *peira*, meaning a trial or attempt, and it may be connected with *peirao*, meaning to make an attempt at something.” Souza, *Piracy*, p. 3. However, *leistes* was by far the most common term, but both terms meant plunderers writ large. Souza, *Piracy*, p. 8. See also Gabrielsen, “Piracy and slave-trade,” p. 390.

Furthermore, in the medieval complaints over piracy, the pirates were often at first termed as “*malefactores*”, but as the case progressed, they changed denomination to “the king’s subjects or men”. The scarcity of the word “pirate” in the legal and diplomatic records can be illustrated by a survey of the word “*pirat-*” (thus permitting for both the noun and the adjective) in Thomas Rymer’s *Foedera* from the volume dealing with the years 1066–1361.

Foedera 1.1–3.1. Number of occurrences of the “*pirat-*”

1066–1272:	0
1272–1307:	1
1307–1327:	6
1327–1344:	8
1344–1361:	5

Figure 1.1

What is of immediate interest in this survey is that “*pirat-*” as an adjective does not appear at all in these volumes of the *Foedera*.

Admittedly, these documents were selected by Rymer and are not an exhaustive collection of the many legal and diplomatic records in the English National Archives. Nevertheless, while there was a very low frequency of the word in these documents, there was no lack of piracy. The medieval governments, however, refrained from using the term *pirata*, preferring instead to use “malefactor” or occasionally “sons of perdition”, but mostly just men or mariners of a certain region or men of the power of the king. Some of the legal and diplomatic records write *malefactores et piratas*, showing the synonymy of the words, but possibly also because they were unsure if the meaning of the word pirate would be effectively transmitted to the receiver. This may in part be because of the neutral use of the term (*terminus technicus*) in the thirteenth century and earlier in the chronicles.

I will briefly present a number of different ways in which the words *pirata* and *malefactor* are used in the legal and diplomatic records. This survey is merely indicative of the use of the words, and it is by no means exhaustive.

I have only come across the adjective *rapta more piratico* (plundered in a piratical fashion) once in the records, which is from a letter from Philippe le Bel to Edward II demanding restitution for wine plundered by English mariners from French merchants.⁶⁵ Sometimes we encounter

⁶⁵ Champollion, II, 32.

formulations where the synonymy between *malefactores* and pirates is clear, as in Edward III's letter to the Castilian king in 1328 concerning the maritime war between the Bayonnais and the Castilians. Here it says about the Castilians: "Quidam malefactores & pirati villarum de Sancto Andero". (certain evil-doers and pirates from the town of Santander).⁶⁶ In 1333 a variation of this can be seen in Edward's letter to the Aragonese concerning marcher-law and reprisals: "pro maleficiis, per piratas" (for evils committed by pirates).⁶⁷ Another variant can be seen in Edward II's letter to Philippe le Bel concerning Norman pirates. These are termed: "piratæ & deprædatores, portum de Lere in Normannia" (pirates and plunderers from the port of Leure in Normandy),⁶⁸ or in Edward II's letter to Castile concerning pirates from Santander, Castro Urdiales and Laredo: "plures marinariorum & piratas".⁶⁹

However, most often the terms "malefactor" or its derivatives, "men of" or "people of", are used.⁷⁰ Thus, in 1328 Edward III complained about "malefactores, de partibus Franciæ & Normanniæ" (malefactors from parts of France and Normandy),⁷¹ and in 1335 "alii malefactores, tam de dicto ducatu Normandiæ & partibus Franciæ, quam de Scoti" (malefactors, some from the Duchy of Normandy and other parts of France, others were Scots). In 1311 Philippe le Bel complained to Edward II that Rochelais merchants had been subjected to "roberiiis, maleficios, & homicidios, in mari, and in costerâ maris Britan, per homines in regno nostro . . . malefactores illos". Interestingly, in Edward's reply these malefactors are simply termed *homines* (since they were not as such convicted).⁷² However, in most sources they were simply called "homines de portubus" or "gentes regni vestry".⁷³ The single strongest condemnations in the legal and diplomatic records is the portrayal of Portuguese pirates in 1295 as *perditionis filii* (sons of perdition) and in 1315 where Flemings and Scots are termed as *Filii iniquitatis* (sons of injustice).⁷⁴

⁶⁶ *Foedera 1307–1327*, p. 732.

⁶⁷ *Foedera 1307–1327*, p. 870.

⁶⁸ *Foedera 1307–1327*, p. 40.

⁶⁹ *Foedera 1307–1327*, p. 331.

⁷⁰ For example, "per gentes Regis Francie". Champollion, II, 14.

⁷¹ *Foedera 1307–1327*, p. 745 and *1327–1344*, p. 912.

⁷² *Foedera 1273–1307*, pp. 146 and 149.

⁷³ *Foedera 1307–1327*, p. 712 and *1327–1344*, p. 951.

⁷⁴ *Foedera 1273–1307*, p. 828 and *1307–1327*, p. 262.

OUTLINE OF THE ARGUMENT

Around 1300, royal control over the kingdom of England as well as of France was advancing. In *War, Justice and Public Order*, Richard W. Kaeuper focuses on the development of increased English and French royal control over the economy of the kingdoms, the tightening of royal control over the military resources of realms⁷⁵ and finally, an increased royal interference in the exercise of justice in the kingdom at all levels.

Kaeuper notes that while the English kings traditionally had had more judicial control over the realm than their French counterparts, in the later part of the thirteenth century there was a general rise in the level of royal intervention in both England and France, and from 1300 at the latest, English and French kings had become very preoccupied with public order, not just in theory but also in practice.⁷⁶ The methods applied in both kingdoms was a developing bureaucracy, the revival of classic notions of law and jurisprudence and an increasing expectation of regular and peaceful procedures for the settlement of conflict in society. There was especially a growing royal interest in interfering in the jurisdiction at all levels of society to promote and expand the royal power.⁷⁷ However, this was not unproblematic. Kaeuper noted that from the reign of Edward II (if not already during the reign of his father) there was an increase in judicial corruption and a perversion of the law. This was because the English royal claim to jurisdiction had passed beyond the capabilities of government and had thus become unmanageable.⁷⁸ Indeed, the demands of the reforms of the judicial procedure and the increasing governmental meddling in

⁷⁵ From 1290, a larger share of the wealth in the towns and countryside permitted the kings to raise larger armies, which in turn enabled them to engage in longer or protracted campaigns. These more protracted wars had a stimulating effect on royal control, since threats to the kingdom allowed for the demand for more taxes to be justified in order to increase protection of the population. Kaeuper, Richard W., *War, Justice, and Public Order* (Oxford, 1988), pp. 117–118 and 140. These conclusions have recently been supported by Xavier Hélary's studies of the French royal armies around 1300. Hélary, Xavier, "Servir? La noblesse française face aux sollicitations militaires du roi (fin du règne de Saint Louis—fin du règne de Philippe le Bel)," *Cahiers de Recherches Médiévales*, 13 (2006), 21–40, Hélary, Xavier, "Délégation du pouvoir et contrôle des officiers: Les lieutenants du roi sous Philippe III et sous Philippe IV (1270–1314)," in L. Feller, ed., *Contrôler les agents du pouvoir* (Limoges, 2004), pp. 169–190.

⁷⁶ Kaeuper, *War*, p. 139.

⁷⁷ Kaeuper, *War*, p. 156.

⁷⁸ Kaeuper, *War*, p. 180, Kaeuper, Richard W. "Law and order in fourteenth-century England: The evidence of special commissions of Oyer and Terminer," *Speculum*, 54 (1979), 734–784.

judicial affairs could not be met by the administrative resources of the kingdom.

In relation to crime and violence, Kaeuper is especially interested in the transgressors' social backgrounds and the phenomenon of "private war".⁷⁹ Here the kings faced a structural problem where royal expectations clashed with practical realities. Indeed, one of the greatest threats to order and peace came from the knightly classes and their regular recourse to violent self-help and their perception of this as their inalienable right. Against these, the kings had a hard time imposing their rule.⁸⁰ While private war in England had been prohibited since the reign of William the Conqueror,

repressing the right of private war certainly did not relieve the English crown of the problem of open violence by lords and gentry. In a curious way the long-standing English prohibition against private warfare may have increased the business of outlaw gangs like the Folvilles or the Coterels... These gangs were available for hire and so were useful agents in local feuding. They could, as it were, carry out extra-legal services for those who wished to remain, or at least to appear to remain, technically within the law. Either the evidence on similar groups in France has not been brought to light or the different status of private warfare in France made them unnecessary.⁸¹

For France in the Middle Ages, the picture was a bit different, as the French kings never managed to completely repress the nobles' private wars even though, according to Kaeuper, the French kings managed to make them accept judicial suits as one way of solving disputes.⁸² Indeed, the most they achieved was, from the reign of Philippe le Bel, a prohibition on private war when the kings of France waged war.⁸³ The essential problem in royal French attempts of prohibiting private war was that the

⁷⁹ It should be noted that the term "private war" is a modern term used by historians to denote the wars and feuds between nobles, that is, the non-royal wars. See, for instance, Carbonnières, Louis de, "Le pouvoir royal face aux mécanismes de la guerre privée à la fin du Moyen Âge. L'exemple du Parlement de Paris," *Droits*, 46 (2007), 3, Gauvard, "Pouvoir de l'État," p. 342.

⁸⁰ Kaeuper, *War*, pp. 184–185.

⁸¹ Kaeuper, *War*, p. 165, see also Bellamy, J.G., "The Coterel gang: An anatomy of a band of fourteenth century criminals," *The English Historical Review*, 79 (1964), 698–717, and Stones, E.L.G., "The Folvilles of Ashby-Folville, Leicestershire, and their associates in crime, 1326–1347," *Transactions of the Royal Historical Society*, 7 (1957), 117–136.

⁸² Kaeuper, *War*, p. 259.

⁸³ Cazelles, Raymond, "La réglementation royale de la guerre privée de Saint Louis à Charles V et la précarité des ordonnances," *Revue historique de droit français et étranger*, 4 série, 38^e année (1960), 530–548.

nobles considered it an inalienable right. If the kings wished to maintain the loyalty of the nobility, they had to accept and/or pardon this activity.⁸⁴ Thus, what was actually at stake was a relationship of domestic power characterised by bargaining, rather than a hierarchy. Here, the ports and the mariners were no different from nobles in their dealings with each other and the Crown.

I hypothesize that piracy in the period between c. 1280–c. 1330 cannot be viewed solely as mere robbery at sea. Rather, piracy was a tool in the ports' and the mariners' competition with their rivals for economic gains. Like the French nobles, this economic competition took the form of private war with the mobilisation of the maritime communities of the ports. Also, like the nobles' private wars, these maritime wars were not illegal *per se* but were rather retaliations over the rivals' alleged crimes against the maritime community in question. Hence, it was a just response to the rivals' felonious piracies against the mariners. The royal governments did not crack down hard upon this practice, since they were dependent on the mariners for naval service, and furthermore, in principle acknowledged the right to retaliatory self-defence. Rather, the royal governments merely tried to minimise the negative effects of maritime war and to control, but not permanently prohibit, the recourse to the private action of reprisals. Thus, the relationship between the kings and the maritime communities was not hierarchical but was rather horizontal—just like the kings' relationship with the nobles. In practice, this meant that bargaining was the governing principle of the interaction between royal government and the mariners of the kingdoms.

METHOD AND SOURCES

In 1292, a seemingly insignificant quarrel between Bayonnais and Norman mariners developed into a maritime war engaging not just Bayonne and the Norman ports, but also the English ports. Eventually it brought thirty-five years of peace between England and France to an end. The main weapon in these maritime wars was piracy.

The maritime wars of these ports in the Atlantic and the English Channel from c. 1280–c. 1330 and their main expression, piracy, is the subject of this study. I have chosen this period for three reasons. Firstly, this period

⁸⁴ Gauvard, Claude, "Violence licite et violence illicite," in C. Gauvard, *Violence et ordre public au Moyen Âge* (Paris, 2005), p. 273.

was characterised primarily by peace between the kingdoms of England and France. While they waged two wars in this period, the Gascon War (1294–97) and the War of Saint-Sardos (1324–25), these wars were brief, and the period was characterised in general by a peaceful relationship between the English and the French monarchs. Times of peace between the overlords of the mariners and ports are important to the study of piracy because it makes it easier to disentangle privateering from piracy. Furthermore, it permits a study of the politico-legal structures of predation at sea, which is impossible during war, since any action, whether “public” or “private”, against the enemy is essentially just.

Secondly, in the first decades of the fourteenth century, the wine export out of Bordeaux grew tremendously. Hundreds of ships went to Bordeaux (and other French wine-exporting ports on the Atlantic coast) during this period, and it seems as if the increased volume of shipping and the huge amount of money to be made out of this trade had a stimulating effect on piracy.

Thirdly, in this period a number of novelties in royal policy towards the sea were introduced by England and France alike. It was in this period that the first admirals by that title were employed by the kings to serve as commanders of the naval forces of the realms. Furthermore, in 1306 as the first northern European monarch, King Edward I proclaimed sovereignty over the seas, thus theoretically making a claim to the ultimate jurisdictional authority over the seas. These initiatives (and others) denote an increasing royal interest in maritime affairs.

I will focus on the ports of Bayonne, the Cinque Ports, and the Norman ports, since their piracies are especially prominent in the sources. Furthermore, these three maritime communities provide a geographical spread to the analysis; a Gascon, an English, and a French example.

I have primarily worked with administrative and legal documents for this study. These documents can be divided into five groups: petitions and complaints over piracy; royal orders to officers to make inquiries into the accusations of piracy and to carry out arrests of goods as a reprisal for piracy; diplomatic correspondences between the kings over claims of piracy; accounts of the mariners’ actions by royal officers and the mariners themselves; and finally peace negotiations and treaties between the ports.

Amongst these sources the English are by far the largest group, firstly because more sources from England than anywhere else have survived from this period, and secondly because England’s geographical position places it squarely in the middle of the northern European maritime trade.

However, this means that there is a risk of focusing too heavily on England and English issues of both English and Gascon subjects, as they are the principal consideration in the sources dealing with the maritime theatre of trade and war. I have tried to alleviate this somewhat one-sided tendency by using French sources when available. Furthermore, given the wide geographical spread of the English realm on the west coast of France, I do not find this to be an insuperable obstacle to the analysis of a more general north-western European situation of trade, war and piracy. Finally, the English legal and diplomatic records contain many details about Continental maritime practices and replies to requests by European kings for redress in cases of piracy, which means that we can often deduce what was going on in the Continental courts as well.

A fundamental challenge to the study of piracy in this period is the fact that most of the sources have an origin in the royal chanceries. Consequently, they mostly reflect events and procedures from the perspective of the royal governments. Nevertheless, it is possible to make qualified assumptions on the views and the world of the mariners from these sources. In the following, I will discuss how to read these sources.

When we encounter piracy in the sources, it is initially through the complaints to the kings by merchants and mariners who had been the victims of piracy. However, most complaints over piracy initially seem to have been presented to local authorities in the ports, for instance the bailiff.⁸⁵ If nothing came of this complaint, or if the aggrieved felt insecure about the impartiality of the local officer, he would complain to the king. This means that we only have knowledge of a portion of the collective petitions and complaints over piracy in the period studied, since the complaints to the local authorities have rarely survived.

Once the complaint reached the king, he and his council could examine it, even though it seems that both the kings of France and England would often present complaints in the *Parlement de Paris*, the Supreme Court for the kingdom of France, or in the Parliament of England.⁸⁶ In cases of piracy committed by foreigners against the king's subjects, if the

⁸⁵ Dumas, Auguste, *Étude sur le jugement des prises maritimes en France jusqu'à la suppression de l'office d'amiral (1627)* (Paris, 1908), pp. 34–35, CPR 1313–17, pp. 147, 231 and 323. For an example of the procedure, see the case of Bartholomew de Welle in chapter 2.

⁸⁶ Dumas, *Étude*, p. 31. Dodd assumes the same for many of the documents in the TNA SC 8 series, which contain numerous complaints over piracy. Dodd, Gwilym, "Parliamentary petitions? The origins and provenance of the 'Ancient Petitions' (SC 8) in the National Archives," in W.M. Ormrod et al., eds, *Medieval Petitions: Grace and Grievance* (Woodbridge, 2009), p. 14.

complaint was found valid, a request was usually sent to the foreign king demanding restitution for the losses suffered and for justice in general. This procedure is described in further detail in chapter 5.

A complaint over piracy and the subsequent petition for justice would usually contain the following components: where the assault took place; how much money and goods were stolen; the level of violence applied in the piracy; and more rarely when the piracy took place. The complaint ended in an appeal for justice by royal intercession. The complaints never contained any description of emotions. The most personal details in the complaints were that the merchant had been reduced to poverty by the piracy. In a sense this was the “script” for a medieval complaint over piracy.

In Gwilym Dodd’s words, complaints and petitions presented to the kings were a “mixture of complaints and requests. The complaints tend to relate to injustices that could not be readily resolved through common law process; the requests were usually prompted by the supplicant’s desire to obtain some form of royal favour, such as a grant, office or pardon.”⁸⁷ However, we must be aware that even though these complaints initially seem to yield a lot of information on the social, economic, cultural and material conditions of individuals and groups, the petitions were almost always written, not by the supplicant himself, but by men with administrative and paralegal experience who knew how to present a case and make it favourable for treatment.⁸⁸ In other words, the petitions followed a paralegal script rather than being a verbatim account of the complaint as it was presented by the petitioner to the notary. Thus, the complaints constitute a methodological problem, namely whether the complaint was based on a true event or whether it had been invented and fitted into the script to obtain money for a loss occurring under more dubious circumstances, for instance, a wreck or a failed piracy by the petitioner himself? The reading of these sources is a balance between two extremes. The first extreme is total incredulity, as everything in the sources could be made up since the petitioner certainly had a motive for giving a false or twisted report in order to obtain money. The other extreme is total credulousness, where all the accounts are taken at face value, since a government notary had written them down and thus guaranteed their veracity. One must strike a balance between the two, for surely the petitions were referring

⁸⁷ Dodd, “Parliamentary petitions?,” p. 12.

⁸⁸ Dodd, “Parliamentary petitions?,” pp. 10–11.

to a reality where people were indeed victims of piracy which occurred roughly the way in which it was described in the sources. However, some sources are clearly deliberate attempts to get more out a situation than was lost and sometimes even covering up corruption, fraud, failed piracies and smuggling on the part of the petitioner himself.

A solution to this problem is to read these sources as Claude Gauvard has done in her study of royal pardons in fourteenth- and fifteenth-century France. On these sources, she writes that it is futile to look for the truth in each particular case or indeed whether the presentation was true at all. However, the narrative in the complaint would not seem true if it did not correspond to an authentic and plausible course of events, not only to the narrator but also to the accused party and indeed to the chancery and courts treating the case. Thus, we can rely on the essential part of the complaint, namely what was found within the reasonable limits of credibility in society in general and their perception of reality.⁸⁹ While the petitions indeed may have followed a paralegal script (in order to make them pass better), this does not mean that the contents are not true. Gauvard's approach is useful for complaints over piracy and accounts of maritime war, since we can thereby use the sources to verify the overall contents and patterns of medieval piracy. These are the peace treaties between the maritime communities. Here we are told what actions had been taken during the maritime wars and what actions the mariners should abstain from in future or face severe punishment. The peace negotiation and treaties thus confirm the picture presented not just of the legal and diplomatic records, but also of royal orders and diplomatic correspondences between the kings as well. The treaties present an agreed reality by two opposing parties which confirms the picture of conflict at sea already presented in the petitions and the diplomatic letters of the kings. Thus, the petition presents a credible account of how things *might* have taken place, even though for detailed analyses each case has to be treated separately. In other words, the accounts have a realistic form and content, which, however, for the individual cases are often impossible to verify.

I have also used chronicles and literary sources. These have been used sparingly and primarily to establish how piracy and pirates were perceived, as well as to understand their practices around 1300. The problem with these sources is that none of the chroniclers seem to have been

⁸⁹ Gauvard, Claude, *"De Grace Especial" Crime, Etat et Société en France* (Paris, 2010 (1991)), pp. 67–68.

especially knowledgeable when they accounted for events at sea.⁹⁰ However, the chronicles and literary texts are useful if used collectively for the understanding in society (at least amongst the learned) of maritime events and its causes. Thus, they are the closest thing that we have to a “public” opinion about events and agents in their day. Furthermore, if they are used in connection with the legal and diplomatic records, they can illuminate certain courses of events, since they supply valuable additions to the more restrictive script of the complaints.

I will not conduct a statistical survey of the volume of piracy. First of all, this is due to the rather disparate nature of the sources and initial problems of their veracity as shown above. As David Sylvester has remarked in relation to the piracies of the Cinque Ports:

the documentary evidence is not reliably representative, and the monetary figures recorded are without a doubt inflated by medieval victims looking to capitalize at the expense of the attackers, a quantitative assessment of the scale of ‘malefaction’ at sea or a comparison to other types of maritime activity is not possible.⁹¹

Furthermore, in the source material there are relatively few complaints compared to the level of trade, but the problem must have been much bigger than what these express. If, for a given year, one would compare the number of occurrences of piracy with the volume of ships and commerce, piracy would no doubt figure as less than one percent of the total of the ship and trade volume in the English customs accounts. For instance, Boston had approximately fifty ships trading in its port in 1303, in 1308–9, thirty-five vessels traded in Southampton and in 1324–25, 110 ships traded in Lynn.⁹² In comparison, the number of what I would characterise as piracy assaults and attempted assaults for the whole of England and beyond in the *Calendar of Close Rolls* and the *Calendar of Patent Rolls* between 1301–7 is approximately twenty-nine, between 1307–13 it is approximately forty-five and between 1323–27 it is approximately fourteen. Given that the English ports alone must have been visited by thousands of ships each year, these figures appear minuscule. But the peace treaties, on the other hand, signify that the threat of piracy and its impact

⁹⁰ Given-Wilson, Chris, *Chronicles* (London, 2004), p. 11.

⁹¹ Sylvester, “Communal piracy,” p. 168.

⁹² *The Early English Customs System: A Documentary Study of the Institutional and Economic History of the Customs From the Thirteenth to the Sixteenth Century*, ed. Norman S.B. Gras (Cambridge, 1918), pp. 288–302 and 360–392.

on trade (at least locally) was taken very seriously by the royal authorities, signalling a level of piracy at times significantly over the one shown by a simple comparison of the number of complaints over piracy and the volume of shipping. Thus, at times piracy must have been a severe nuisance and a risk which made merchants refrain from sending out their ships, as testified by some of the sources.

One probable reason there are relatively so few complaints of piracy in the extant source material is that in all likelihood only the complaints of the richest victims reached the royal courts. Because of their wealth, these victims were more likely to have the ear and support of the kings. At least, the huge amounts reckoned to be lost due to piracy seem to indicate this. This may also be the reason for the high losses registered in the relatively few cases for which we have evidence. These losses often ran into hundreds of pounds, sometimes thousands. To put these sums into context, in 1301–02, in Winchester, the richest see of England, the bishop's gross receipts came to £5,200, and in the first decades of the fourteenth century, the lawyer John Stonor, who was a clever businessman, and whose success was due to a career in royal service, had an income of probably over £600 a year. These were some of the richest men in the realm, and other well-off people had even less. Around 1300, an English knight banneret received 4s. a day, a knight 2s. and squires and sergeants 1s.⁹³ The customary law of the sea, the *Rôles d'Oléron* from 1315 in the earliest versions, assumed a day wage of a mariner to be 4d.,⁹⁴ and the mariners impressed for military service against the French in 1326 were to receive 3d. a day while the shipmaster received 6d.⁹⁵ This comparison of income strongly suggests that only a proportion of piracy cases were actually recorded, and our knowledge of their full extent is almost certainly incomplete. Furthermore, the losses to pirates of the richest merchants may have been prone to exaggeration or been used fraudulently, for example, to cover up a shipwreck [see chapter 2 and the case of the plunder of the de France brothers, pp. 219–220]. Thus, due to the problems of veracity and the under-reporting in the source material of losses at sea to pirates, my analysis is a qualitative one.

⁹³ Prestwich, *Plantagenet England*, pp. 371 and 399, Prestwich, Michael, *War, Politics and Finance under Edward I* (London, 1972), p. 160.

⁹⁴ Ward, *Medieval Shipmaster*, p. 105.

⁹⁵ *CCR 1323–1327*, pp. 608–613.

The book consists of two parts. The first part deals with how and why piracy was conducted. Thus, chapter 2 contains an examination of the various ways in which piracy and pirates appear in the sources when we are dealing with singular occurrences. The aim of the chapter is to establish how and under what conditions medieval piracy took place. In chapter 3, the focus is on the background of the three maritime communities, Bayonne, the Cinque Ports and the Norman ports, which I concentrate on in the book. These were not only especially prone to piracy, but they also employed piracy in their wars against commercial rivals. Furthermore, in this chapter I consider the impact of the Gascon wine trade on piracy in the thirteenth and fourteenth centuries. In chapter 4, I shall present a case study of maritime war. The war in question is the one which broke out between the Normans and the Anglo-Bayonnais, essentially the Cinque Ports and Bayonne, in the 1290s. Here I analyse not only what caused the war in the first place, but also how contemporaries viewed it and what practices were employed in maritime wars.

The second part, beginning with chapter 5, examines the politico-legal framework. In chapter 5, I deal with medieval maritime law. It seems as if no law was in place to govern conflict at sea in the North around 1300, but recourse to restitution and vengeance in the form of government-authorised reprisal was an accepted practice or convention. Thus, while there was no legal permit for piracy *per se*, a person could still legally seek redress for piracy by court of law or through private acts of aggression. In chapter 6, I shall analyse the politico-legal status of the sea as traditionally governed by legal customs defined mainly by seafaring communities, which, from the fourteenth century, were increasingly countered by royal claims to sovereignty over the seas on the borders of the rulers' kingdoms. An example of the problems of defining the legal status of the sea is analysed through the Anglo-French negotiations in 1306 in Montreuil over reciprocal piracies. In chapter 7, the settlement procedure for maritime wars is analysed. I focus on the king's role in these negotiations, the gradual change in how kings treated these wars in the first decades of the fourteenth century, and finally how mariners and the maritime communities themselves reacted to these treaties. In chapter 8, I shall examine the relationship between robbery, violence and the governments' reaction to piracy. One of the major paradoxes when working with medieval piracy is that the usual severe punishments for violence and robbery were not implemented by the courts. The aim of the chapter is thus to determine why this was not so. Finally, chapter 9 contains a brief conclusion of the results of the investigation undertaken in the book.

CHAPTER TWO

THE ANATOMY OF MEDIEVAL PIRACY

In this chapter I shall deal with the anatomy of medieval piracy. By anatomy I mean an analysis of the vessels used by the pirates as well as their victims, the geography of piracy, the procedure of a pirate assault, the fate of the victims and their goods and, finally, the collaboration between pirates and their land-based accomplices. It should be noted that these cases are rather hard to disentangle, and it is important to stress the confusion that reigned. Even contemporaries had trouble telling what had actually happened in the reported incidents of piracy. Piracy in practice did not adhere to fixed schemes of crime despite the formal script of the complaints. Thus, the image of piracy provided in this chapter is somewhat impressionistic.

While it may seem as if piracy was omnipresent in the Middle Ages and that mariners and merchants lived in continual danger of being assaulted, it must be noted that sea-borne trade generally functioned and functioned well. On the whole, trading voyages could and would be conducted without any significant disturbances from other sea-folk. Hence, this chapter does not seek to present piracy as an overwhelming problem at sea. Nonetheless, the maritime wars of Bayonne and the Norman ports, and the continual conflicts between the Cinque Ports and Great Yarmouth, at times endangered maritime commerce in general. Furthermore, natural disasters like the Great Famine of 1315–17 and the kings' wars had a stimulating effect on piracy. The 1310s were particularly rife with piracy due to the wars between England and Scotland and between France and Flanders. This chapter, however, deals solely with piracy as an act of personal enrichment, that is, as an inherently opportunistic action. The issues of law, reprisal and maritime wars will be explored in the later chapters.

THE VESSELS OF TRADE AND WAR

It is difficult to get a clear picture of the exact types and composition of medieval ships. This is due to the somewhat uncertain source material. It consists of archaeological excavations of shipwrecks, images (for instance, in chronicles and on town seals), and textual sources such as chronicles,

medieval literature and legal, commercial and diplomatic records. These different types of sources often give a somewhat confusing and contradictory presentation of ships. The literary sources were frequently written by people with no knowledge of, or interest in, maritime matters. The legal, commercial and diplomatic records usually only indicate carrying capacities of the ships and sometimes the size of the crew. The archaeological evidence is relatively sparse and often does not correspond with the textual presentations. Finally, since the images frequently followed an iconographic programme, it is unclear how much realism was applied in the portrayal of ships.¹ I will therefore confine myself to some general remarks on the ships, since a detailed analysis is beyond the purpose of this book. I shall specifically focus on the military advantages and shortcomings of the medieval vessels.

In the Middle Ages, there were basically two types of vessels in use, defined by their means of propulsion. One was purely sail-driven ships, the other vessels which relied on oars as well as sails as a driving force.²

The sailing ships are usually assumed to be either of the cog type (a flat-bottomed cargo ship with high sides and distinctive straight-angled stem- and sternposts) or a hulk (supposedly a keel-less vessel lacking stem- and sternposts).³ However, Carsten Jahnke has shown that the name “cog” refers to carrying capacity rather than a specific shape.⁴ Yet identification based on the carrying capacity of the ships is deceptive. The sources use the term “tuns” as a designation of the weight-carrying potential of the ship, but tunnage was literally the number of tuns a vessel could carry, and estimations for the Gascon wine tuns are that they could contain from 750 to 900 litres.⁵ This discrepancy means that the determination of ship sizes—even when we estimate it by the number of tuns that it could carry—is uncertain. While it is difficult to make generalisations about the size of medieval ships, in the fourteenth century the tonnage of ships as

¹ Rodger, *Safeguard*, p. 61.

² I have borrowed this terminology from Englert, Anton, “Naves magnae—den professionelle søhandels fartøjer. Store lastskibe i danske farvande 1000–1250” in P. Carelli et al., eds, *Ett annat 1000-tallet. Individ, kollektiv och kulturella mönster i medeltidens Danmark* (Gothenburg & Stockholm, 2004), pp. 111–119. For warships, see also Rodger, N.A.M., “The naval service of the Cinque Ports,” *The English Historical Review*, 111 (1996), 637–638.

³ Friel, Ian, *The Good Ship* (London, 1995), pp. 35–36.

⁴ Jahnke, Carsten, “Handelsstrukturen im Ostseeraum im 12. und beginnenden 13. Jahrhundert. Ansätze einer Neubewertung,” *Hansische Geschichtsblätter*, 60 (2008), 178–181.

⁵ Hutchinson, Gillian, *Medieval Ships and Shipping* (Cranbury, 1994), pp. 90–92.

indicator for size shows that about half of all English ships were fifty to ninety-nine tuns, but some ships could be over 200 tuns.⁶

These “cog” ships often had a rather deep hull and sat deep into the waters. Accordingly, they needed quays for the ships to unload and moor. However, as few ports in this period had facilities for these large ships, many of them anchored outside the port and used smaller vessels (“lighters”) to freight the goods to the ports.⁷ Furthermore, since a ship en route from, for instance, Gascony to Flanders had to make many stops along the way, both for provisions and to take refuge from tempestuous weather or pirates, these small boats were needed for day-to-day operations. The lighters also served the purpose of avoiding paying full customs to the local authorities. For example, if a ship en route to a big trade emporium made a stop in Calais, it had to use lighters in order to avoid paying customs to the French authorities for the whole cargo.⁸

The success of the cog was caused by a large cargo carrying capacity and a very strong hull. It was furthermore cheap to build, and the high freeboard gave the cog an advantage over lower vessels in combat.

While sail-driven ships (cogs, hulks) were the mainstay of long-distance trade, ships of the oar-sail variant were also in use in northern European waters during the thirteenth and fourteenth centuries. These were the long, slender ships of the Norse tradition, the Mediterranean galleys, the barges, and the balingers.

The Mediterranean galley was not usually built in the North, except by the French kings in the *Clos des Galées*, a royal French shipyard and naval requisitioning centre in Rouen, from the end of the thirteenth century. The main instances where galleys are mentioned in the sources are when they were built by the kings with a specific military purpose in mind⁹ or by Mediterranean seafarers either trading in the North or hired by the kings for military service. In the fourteenth century, oar-sail type ships named balingers and barges were also used, but in the terminology neither galley, balinger nor barge seems to have described a specific size, even though the balinger could carry as much as fifty tuns, and the larger barge could carry as much as 100 to 150 tuns. Therefore, they could also be used as

⁶ Friel, *Good Ship*, p. 202, Unger, Richard W., *The Ship in the Medieval Economy* (London, 1980), p. 163.

⁷ Hutchinson, *Medieval Ships*, pp. 111–112.

⁸ Derville, Alain, “Calais avant 1347. La vie d'un port,” in *Les hommes et la mer dans l'Europe du Nord-Ouest de l'antiquité à nos jours: actes du colloque de Boulogne-sur-Mer*, 15–17 juin, 1984 (1984), p. 194.

⁹ Friel, *Good Ship*, p. 146.

cargo vessels.¹⁰ The balinger seems to have relied on speed, and it was a valuable addition to the heavier sailing ships, the latter of which became the mainstay of English naval operations in the fourteenth century.¹¹ Ships of the Norse tradition like knarrs, that is, slender, oar-sail driven vessels with a low freeboard, were probably also in use in this period, even though the kinship between this kind of ship and the barges and balingers is unclear.¹² Despite the *Clos des Galées*, the French naval situation was generally similar to that of the English. Both the English and the French kings relied to a large extent on drafted ships of the merchant marine for naval service. For instance, Gyrart le Barillier's list of wine provisions for French ships mobilised for war in 1295 demonstrates the dominance of *nefs* (223 in total), that is, sail driven ships, in French naval service. While his list also includes *galies* and the smaller *galiot* (fifty-seven in total), it does not seem possible to make a more precise distinction between the actual size and carrying capacity of these vessels.¹³

There was a distinct difference between the military potential of the sailing vessels and the oar-sail type of ship. The galleys were primarily used for convoy duty, for stopping and searching ships, for enforcing customs regulations and for amphibious incursions on land. However, the oar-sail type had distinct disadvantages compared to the sailing ship in combat. The large crews and the narrow shallow hulls of the oar-sail ships entailed low storage capacity, and due to the need for large amounts of drinking water, they only permitted short range operations. Furthermore, the low freeboard meant that most often they were out-matched when they boarded sailing ships. However, this by no means made the sail ships impregnable. During the French naval operations on the south-eastern coast of England in 1315–16 to intercept trade with Flanders, English ships were taken over by smaller French barges and boats (*bargiis et batellis*) because of the numerical superiority of the latter and their apparent

¹⁰ Rodger, *Safeguard*, p. 67, Unger, *The Ship in the Medieval Economy*, pp. 171–172.

¹¹ Friel, *Good Ship*, p. 150.

¹² Rose, *Medieval Naval Warfare*, p. 135, Rodger, *Safeguard*, p. 589. Traditionally, it has been assumed that the name “balinger” derived from the French baleinier and that originally it was a whaling vessel which eventually proved to be very efficient in war at sea. However, William Sayers has recently challenged this understanding. Through studies of Old Norse and Irish maritime vocabulary, he proposes rather that the balinger was a regional English and French further development of the knarr, sharing some characteristics with the Mediterranean galley while still being a distinct vessel from these. Sayers, William, “Fourteenth century English balingers: Whence the name?,” *The Mariner's Mirror*, 93 (2007), 4–15.

¹³ *Archéologie navale*, ed. Augustin Jal, 2 vols (Paris, 1840), II, 301–319.

employment of a swarming tactic.¹⁴ In addition, for short spells of time the oar-sail vessel was a faster and in general a more manoeuvrable vessel than sailing ships. In relation to piracy, this made it effective for operations relying on speed, such as scouting and ambush.¹⁵

It should be noted here that major naval battles were a relatively rare occurrence in the Middle Ages, because it was difficult to acquire accurate information about the enemy's whereabouts before descending upon them. Furthermore, the combatants often seem to have preferred not to fight these battles, as the losses were potentially enormous. For the most part, the ships used in warfare served as logistical support, and therefore were not meant for offensive action.¹⁶ In addition, medieval ships were mainly built for trade. Ships made exclusively for war were very rare.¹⁷

The inventories for naval campaigns mention large weapons like springals (a heavy torsion weapon on mounting),¹⁸ but these seem only to have been used in wartime on ships specifically equipped for war, not freight. Yet the mariners always seem to have been armed with at least some weapons—crossbows,¹⁹ swords and daggers, and grappling material for closing in but which could also be used for civil purposes when going to a port, and at least for some, armour like haketons²⁰ and helmets. This was a basic defensive precaution against potential pirate attacks, but obviously it might also be used in assaults. Thus, the mere fact that the mariners were armed did not necessarily imply hostile intent.

In terms of whether a ship had hostile intentions, the real give-away was whether the ship itself was visibly ready for battle with a forecastle, an aftercastle and a topcastle set at the mast-head, and whether they were flying banners signalling hostile intent. The use of castles on the ships gradually became standard in the thirteenth century, but not all were permanent features in this period, and it was presumably only on the largest ships that these were fully integrated with the hull.²¹ This means that at

¹⁴ *Foedera 1307–1327*, pp. 279–280.

¹⁵ Hutchinson, *Medieval Ships*, p. 151, Rodger, *Safeguard*, pp. 65–66.

¹⁶ Rose, *Medieval Naval Warfare*, pp. 57–65.

¹⁷ Hutchinson, *Medieval Ships*, p. 88.

¹⁸ Rodger, *Safeguard*, p. 604.

¹⁹ The crossbow was particularly effective on sailing ships. Lane, Frederic C., "The crossbow in the nautical revolution of the Middle Ages," *Explorations in Economic History*, 7 (1969), 166.

²⁰ "A leather jacket plated with (or worn under) mail." Musson, Anthony, ed., *Crime, Law and Society in the Later Middle Ages* (Manchester & New York, 2009), p. xxi. TNA C 47/31/5/1 mentions Norman mariners wearing "aketonis".

²¹ Friel, *Good Ship*, p. 79, Hutchinson, *Medieval Ship*, pp. 153–154, Rodger, *Safeguard*, p. 63.

least for some ships, it was clearly visible whether they had been readied in advance for conflict, thus giving away its hostile intentions. However, most pirates would try to avoid battles. Instead they preferred surprise attacks.

THE PIRATE ASSAULT

Marc Russon has categorised some of the main occasions when medieval piracy occurred. He notes that piracy could occur:

- By attack, pursuit and hailing of isolated ships, as well as of ships sailing in convoy at high sea.
- While patrolling at unavoidable passage points and capes and along sea-lanes.
- By ambush in the estuaries, the anchorages or the bays by means of maritime or coastal surveillance.
- By observation of the maritime traffic from the ports and the harbours with the attack taking place just outside the ports.
- Inside the ports themselves following either a spontaneous or a pre-meditated quarrel amongst disembarked mariners, followed by the pirates' rapid escape.
- By fraud where a crew highjacks the cargo of a merchant and sells it for their own profit.²²

Russon's categories serve as a good guideline for a more detailed analysis of individual cases of piracy from 1280 to 1330.

The typical pirate assault seems to have played out like this: Pirates would try to defeat the victim by a superior number of vessels. During the attack, they would try to halt the prey by using grappling hooks or something similar in order to board the ship. At the same time they would shower the ship with arrows, bolts, stones or javelins to break resistance, to provide cover for the men boarding and to deter the victim from cutting the ropes of the grappling hooks. In principle, the victims could defend themselves, but in practice many seem to have surrendered once boarding commenced, or after a short but brutal combat as the mariners may well have felt required to put up at least a token resistance in order to avoid

²² Russon, *Côtes*, pp. 65–66.

being accused afterwards of collaborating with the pirates. Fighting to the last man does not seem to have been the normal defensive procedure.²³ Instead, the victims attempted to avoid confrontation altogether by evasion. While this seems like the usual procedure in pirate assault, piracy could, in fact, happen under many different circumstances.

I will use examples mainly from the English complaints over piracy to illustrate the diversity and forms that piracy could take. They show not only how piracy functioned in practice, but also who was involved and what maritime conditions made piracy attractive.

Medieval shipping was essentially a coast-hugging experience,²⁴ and while some sources state that the attack occurred at high seas, this should probably be interpreted as either sailing along the coast or crossing the Channel from France to England. The uncertainty of the meaning of the term is shown by an example from 1317. That year, a Spanish ship laden in Harfleur and bound for Calais was plundered en route by mariners from Southampton who wounded the men and took the loot to the Isle of Wight.²⁵ While the sources state that this occurred at “high sea”, this should probably still be understood within the context of coastal sailing.

The coastal sailing and the Channel crossing were good places for piracy. By lying in wait, the pirates would have an easy time apprehending their prey, and piracy often happened at isolated places, thereby minimising the risk of being caught. In 1304, two Spanish merchants were bringing a ship to England laden in Seville with goods to the value of 4200 l.t.. As the ship was preparing to make the crossing to England, off Saint-Mathieu (Brittany), eight English ships from Yarmouth, the Isle of Wight, Haversford, Dunwich, Bristol and Shoreham attacked her, took the goods, ropes, anchors and other gear with them to their home counties, and disposed of the booty in the ports along the English coast.²⁶ In this case, it is not clear whether the English were merchants returning from Gascony, or were lying in wait off Brittany and then pursued the Spanish as they headed for England. The description in the complaint seems to support the latter assumption, and the mariners from these diverse ports may well have planned the ambush in advance. By dispersing the goods in their homeports, they made identification and thus apprehension by the

²³ Hutchinson, *Medieval Ship*, p. 146.

²⁴ Ward, *Medieval Shipmaster*, pp. 122–123 and 143.

²⁵ *CPR 1317–1321*, pp. 82, 84, 89 and 95.

²⁶ *CPR 1301–1307*, p. 286.

authorities almost impossible. This dispersion of goods over a large area seems to have been a tactic favoured by many English pirates.²⁷

A case from 1323 further demonstrates the procedure when pirates were lying in wait. In this episode, Rochelais merchants had laden a Spanish ship in La Rochelle with eighty-four tuns of wine, eighteen bales of tallow and ten bacons to be taken to Calais for trade. Off Dover, the ship was attacked by two barges from Somerset and Dorset. They plundered the ship and took the goods to Weymouth, where the goods were divided amongst the pirates. The same year, merchants from Saint Omer complained that their ship with 120 tuns of wine, also going from La Rochelle to Calais, was intercepted near the Island of Guernsey by pirates from Kent (most probably from the Cinque Ports) who took their goods to Winchelsea for partition.²⁸ The Channel Islands in general seem to have been a favoured spot for Anglo-Gascon pirates to lie in wait, since much traffic passed these islands en route to the trade emporia of England, France and Flanders.

Another example of pirates lying in wait is found in a petition from 1320, when a London merchant had charged a Winchelsea ship to take ninety-four tuns (price £8 per tun, that is, £752 sterling) of wine from Bordeaux to Antwerp. Between Wolpen and Walcheren, the confined strait in the estuary by the Zwin and Sluis, Flemish pirates attacked, and the ship and its crew were taken to the Zwin and detained for seven weeks. After some deliberation the ship was finally released, albeit empty, to the shipmaster.²⁹

While piracy could in principle happen anywhere along the coast, certain places seem to have been especially well suited for it. For instance, a number of piracies occurred at the Humber estuary. In 1316, merchants from Bazas in Gascony had chartered an Ipswich ship at Bordeaux to bring eighty-four tuns and four pipes of wine to Kingston-upon-Hull. The ship was attacked and plundered by pirates at the entrance to the Humber—just opposite the town.³⁰ These examples show a preponderance of piracy in the straits where it was easy to survey the traffic and pick off prey. Indeed, the straits and estuaries along the French and the English coasts were favourite places for attack. The Gironde estuary, the Breton west coast by Saint Mathieu, the *pertuis* between the Charente estuary and

²⁷ See, for instance, *CPR 1292–1301*, pp. 215–216 and *CPR 1317–1321*, p. 472.

²⁸ *CPR 1321–1324*, p. 371.

²⁹ *CCR 1318–1323*, pp. 256–257.

³⁰ *CPR 1313–1317*, p. 580.

the islands of Oléron, Ré and Aix, the Seine estuary, the Straits of Dover, the Humber and Thames areas and finally the Zwin estuary seem especially dangerous, since these confined waters made it easier for pirates to out-manoeuvre and surprise their prey.³¹ These confined areas were particularly attractive, as the sailing ships' manoeuvrability was severely hampered here, and by lying in wait, and perhaps by using oar-sail ships, the pirates could surprise and quickly intercept their prey. If the attacker could get into a position where he was windward of the prey, chances of success were even better, since this permitted the pirates to choose positioning, mode and timing.³² Since all ships of either type had only one mast and sail, these manoeuvres had great importance in combat situations, as

With a square sail set on a single mast, necessarily on or very near the centre of resistance, the only force available to turn the ship is the weak effect of the rudder. Oared vessels probably used some oars to push the ship's head round when tacking, but merchantmen must have been unhandy, especially in confined waters.³³

The Breton Raz was an especially good spot to conduct piracy, since the waters off western Brittany were dotted with small, often uninhabited, islands which were ideal for ambushes.³⁴ In his book on the Bretons and the sea in the Middle Ages, Jean-Christophe Cassard has stated that piracy off the coast of Brittany would usually only concerned the fishing vessels or merchant ships in distress. According to Cassard, the local Breton pirates were opportunistic fishermen, and some of their actions seem related to wreckers. They were not actively cruising for victims but rather took advantage of others' unfortunate situations.³⁵

Hence, claims Cassard, large ships such as Mediterranean galleys or big sailing ships would have little to fear from pirates, since the galleys by definition had a very large crew that was able to fight back. Furthermore, the Italians tended to avoid the Breton Raz altogether. The smaller ships were the main victims, and these were generally disinclined to armed resistance, but chose either to flee in the lighters or to simply surrender. Cassard concludes that at least around 1300, Breton piracy was merely

³¹ James, Margery K., *Studies in the Medieval Wine Trade* (Oxford, 1971), pp. 119–125, Russon, *Côtes*, p. 65.

³² Friel, *Good Ship*, p. 141.

³³ Rodger, *Safeguard*, p. 64.

³⁴ Cassard, Jean-Christophe, *Les Bretons et la mer au Moyen Âge* (Rennes, 1998), p. 152.

³⁵ Cassard, *Les Bretons*, p. 156. See also CCR 1318–1323, p. 209.

opportunistic and occasional. It was dependent on favourable maritime conditions, it was not premeditated, it was risky and the gains were uncertain. Thus, the piracy was of an impulsive and hazardous character rather than a coherent project carried out by maritime adventurers.³⁶

However, the assumption that pirates would not target large ships and galleys is not solid. Under certain conditions, pirates seem to have been more than capable of conducting attacks on big ships as well, as shown by the French Admiral Berenger Blanc's patrols in 1315–16 on the southeast coast of England. These patrols were officially to enforce an embargo of Flanders, but they often attacked neutral or even friendly shipping. Thus in 1316, Admiral Blanc and the Calaisien mariners captured a Genovese galley called the *Dromund*, a huge 60-oar galley laden with victuals and wheat for Edward II's men in Berwick, to the value of £5,716 sterling. This assault was allegedly carried out by twenty-nine French ships, probably smaller than the *Dromund*, while the *Dromund* was anchored and being unloaded at Les Dunes in the port of Sandwich.³⁷ The tactics used on these occasions were apparently to overpower the big ship by sheer numerical superiority, combined with an ability to confine and block the ship's further advancement. While this was an operation officially sanctioned by the French king and thus had a naval or a privateering aspect, the actions were akin to those of pirates. In an incident in 1317, twenty-four or more ships from Great Yarmouth, probably sailing in convoy, captured a Winchelsea ship on the English coast.³⁸ While the ships from Yarmouth may well have been a banding together for protection against Scottish and Flemish pirates, these mariners were not above exploiting their numerical superiority to conduct piracy themselves.

Contrary winds often played a decisive role in piracy, both to the benefit and to the detriment of pirates. In 1304, merchants from Bayonne were sailing from Lisbon to London with a load of wine and spices to the value of 312 marks. These were plundered by Flemish pirates in the sea near Sandwich, and the crew was held captive for ten days on the ship. However, contrary winds drove the Flemings to Faversham, where they were apprehended by the authorities. Yet in order to maintain the peace with Flanders, Edward I released the pirates on condition that the count of Flanders would put them on trial and ensure restitution to the English.

³⁶ Cassard, *Les Bretons*, p. 157.

³⁷ The *Dromund* case is documented in *CCR 1313–1318*, pp. 291, 341, 345–346 and 475–476, *CCR 1318–1323*, pp. 496 and 692, *CPR 1313–1317*, pp. 501–502 and 571–572, *Foedera 1307–1327*, pp. 292, 455–456, 502–503 and 517.

³⁸ *CPR 1313–1317*, p. 694.

However, the trial did not take place, nor was restitution provided.³⁹ This would not be the only time when the English authorities apprehended Flemish pirates who had been blown off course. In 1302 the Lombard merchant, William Servate, sent a servant to Provence to buy spices to be taken to London for the king's consumption. The goods were laden onto the Flemish shipmaster Lambert Lebote's ship, but on the sea-coast near Winchelsea, the mariners seem to have mutinied (or perhaps it was the plan all along) and seized the goods. Unfortunately, contrary winds blew the ship to Winchelsea, where the shipmaster and crew were arrested by the bailiff. However, before the trial, Lambert and some of the mariners managed to break free and escape with the ship, the goods (to the value of £445 2s. 10d.) and the 12-year-old son of William Servate. The case apparently ended well for Servate, with the pirates paying a fine of 2400 l.p. and presumably also the return of Servate's son, for in 1303 he claimed that he had been fully satisfied for his losses. This led to Edward I acquitting the Flemings from further blame.⁴⁰ In another unfortunate incident in 1320, Gascon merchants chartered a Norman ship in Bordeaux to take wine to the value of 200 marks to Dieppe. However, a tempest drove the ship to the Scilly Islands. Here it was boarded by pirates, the crew was killed and thrown into the water, and the cargo was taken to Falmouth and Fowey.⁴¹ Thus, winds could sometimes blow the victims directly into the arms of pirates.

Often, ships were attacked in the ports,⁴² or just outside the ports when anchored for trade with the locals or waiting for good wind.⁴³ These piracies were either conducted by locals, people from neighbouring ports or

³⁹ *CPR 1301–1307*, p. 210.

⁴⁰ *CCR 1302–1307*, pp. 3, 8–9 and 48–49.

⁴¹ *CPR 1317–1321*, p. 538.

⁴² I use two definitions of ports, Gillian Hutchinson: "those settlements whose economy depended on the operation of ships." Hutchinson, *Medieval Ship*, p. 104, and Mathias Tranchant: "Le terme de port renvoie en effet à celui de porte. En ce sens, l'infrastructure portuaire est un passage entre la terre et la mer, une entrée et une issue permettant la circulation des hommes, des marchandises et des matériels. Elle assure la commutation entre différents modes de transport, maritime, fluvial et terrestre. . . . Mais c'est aussi un havre, c'est-à-dire un abri pour des navires qui soit sont en péril, soit ont besoin de faire relâche sur l'itinéraire de leur destination, ou plus simplement stationnent dans l'attente d'être chargés ou déchargés. La sécurité assurée par le havre tenait à ses qualités naturelles, qui plaçaient les bâtiments hors de portée des brisants et des courants les plus violents, mais aussi aux dispositifs de défense et d'alerte mis en œuvre à ses abords." Tranchant, Mathias, "Les ports maritimes en France au Moyen Âge," in *Ports maritimes et ports fluviaux au Moyen Âge* (Paris, 2005), p. 25.

⁴³ See, for instance, *CPR 1307–1313*, p. 243, *CPR 1317–1321*, pp. 304, 306, 360–361 and 365–366, *CPR 1321–1324*, p. 160, *CCR 1302–1306*, p. 34.

by foreigners lurking in the port. In 1303, an English merchant had loaded a cog in Fawyk (probably Fowey, Cornwall) with wine and salt (value £300) to be taken to Sandwich. The ship was forcibly taken in the harbour of Portsmouth by Flemish pirates who brought it and its navigators to Flanders.⁴⁴ However, locals could also attack their fellow-citizens in port, as happened in 1313, when a Bristol man's ship laden with wine was attacked in the port of Bristol by his fellow citizens.⁴⁵

A variant of the surprise attack while the victim was lying anchored can be seen in an incident from 1308. That year, three merchants from Great Yarmouth had loaded their ship in Rouen with canvas, cables, gold and silver to the value £40 sterling to be brought to England. After sunset during Lent, while the ship was anchored near Chef de Caux by the Seine estuary, Norman pirates from Leure attacked the ship and took it far out to sea, where they plundered the mariners of everything including their clothes.⁴⁶ While these types of attack are rarely documented, I suspect that they were quite frequent, since this was one of the easiest ways of identifying a potential victim and then plundering him. In any event, it is interesting that the Normans made the effort of bringing the ship away from the coast to avoid detection. Furthermore, this incident shows that the Normans must have identified their prey well in advance, either by personal observation or through local informants, since Chef de Caux lay just next to Leure.

While many assaults were ambushes where the victim was caught off guard, sometimes the victim managed to flee, and a protracted hunt commenced. For instance, in 1322 the merchant William de Ebbeworth from Tavistock was sailing to Sutton, when he was attacked by pirates from Weymouth and Portland. The pirates pursued him for more than an entire day before at last they boarded his ship in the waters of Lyme. This resulted in the plunder and the sinking of the ship.⁴⁷ In another episode, reported in 1303, a Florentine merchant had laden a ship from Sandwich with wool in London to go to the Continent (probably Flanders) to trade. Yet contrary winds blew the ship to Northmouth, where Flemish pirates from Damme, Nieuwpoort and Biervliet chased the ship into the port in their boats. Here, they boarded the ship and stole the wool. Surprisingly,

⁴⁴ *CCR 1302–1307*, pp. 38–39.

⁴⁵ *CPR 1313–1317*, p. 134.

⁴⁶ *Foedera 1307–1327*, p. 40. Another instance of such a night-time attack occurred in 1323 or 1324. See *CCR 1323–1327*, pp. 156 and 171–172.

⁴⁷ *CPR 1321–1324*, p. 151. See also *CCR 1307–1313*, p. 438.

the pirates were apparently still residing in Northmouth when the complaint reached the king, for Edward I ordered Robert de Burghersh, constable of Dover Castle and warden of the Cinque Ports, to inquire into the case and make the necessary arrests if the goods were found.⁴⁸ These incidents show the persistence of pirates but also the (potential) rapidity of the government in responding to complaints. It furthermore shows the caution exercised by the authorities in the complaints over piracy. Like historians today, royal officials had difficulty telling the truth in these complaints. The arrest of disputed goods was a standard procedure in claims of piracy, as well as of regular commercial fraud, until the officials had had time to investigate further.

Some pirates were especially notorious. During the thirteenth century, the Cinque Ports figured as one of the pillars of the naval potential of the English kingdom. In this period, the port of Winchelsea seems to have risen to prominence in regard to piracy as well as naval service. In the first three decades of the fourteenth century, one prominent Winchelsea family in particular figures in the sources, the Alards (together with Robert Batayle).⁴⁹ In the 1320s, several cases show the Alards as pirates and as admirals as well. On 16 May 1322, a commission of *oyer et terminer* was appointed to settle the complaint of a German merchant that Portsmen, including Gervase Alard (the younger) and the two Henries (sic) Alard,⁵⁰ had assaulted and plundered him in the port of Harwich.⁵¹ Interestingly, a few days before, on 6 May, Stephen Alard, Robert Alard and Robert Batayle had been pardoned for all offences on land and at sea, that is, piracy.⁵² Robert Batayle had served Edward II against the Scots in 1319,⁵³ and on 13 May, a week after the pardon, he was appointed admiral of the ships of the Cinque Ports serving the king against the Scots.⁵⁴ Robert Batayle apparently continued to trade while he was in royal service, for

⁴⁸ CCR 1302–1307, p. 5.

⁴⁹ Sylvester, "Communal piracy," p. 168. For the Alard family, see Dressler, Rachel A., *Of Armor and Men in Medieval England* (Aldershot, 2004), pp. 45–50. She argues convincingly that the Alards were not nobles, but that they tried to portray themselves as such in their effigies. See also Salzman, L.F., "Some notes on the family of Alard," *Sussex Archaeological Collections*, 61 (1920), 126–141.

⁵⁰ CPR 1313–1317, p. 509. Salzman, "Family of Alard," p. 140.

⁵¹ CPR 1321–1324, p. 160. Possibly the same year, Gervase Alard and other Portsmen were accused of two other piracies on the east coast of England. See TNA SC 8/99/4912 and SC 8/99/4913.

⁵² CPR 1321–1324, p. 107.

⁵³ CCR 1318–1323, p. 58.

⁵⁴ CPR 1321–1324, p. 119.

on 9 March 1323, he and Stephen Alard were granted a one-year protection for their ship and men to trade abroad.⁵⁵ Later that year, on 18 April, he was appointed admiral again, and on 23 December, a commission was appointed to inquire, through the legal process of *oyer et terminer*, into the case of the assault of Robert Batayle, John Batayle, Stephen Alard, Ger-vase Alard, Reginald Alard and other Portsmen on a Bayonnais merchant, Bertrand de Vylar (Villiers), who had laden a galley in Sluis with goods destined for Spain when he was pursued by pirates and sought refuge in Sandwich. However, while the galley was anchored at Stonor, the above-mentioned men assaulted it, took the galley to Sandwich and divided the goods amongst themselves.⁵⁶ When this attack took place is unknown, but since England in May 1323 had agreed to a thirteen-year truce with Scotland and was at peace with Flanders as well, it is most likely that the assault was an act of pure piracy rather than a protection of the coast (Batayle is, for instance, not addressed as admiral at this point), even though they might have tried to claim this.

The above-mentioned Stephen Alard is especially illustrative of the type of merchant-cum-pirate who roamed the seas in this period.⁵⁷ In 1317, he was subject to Flemish piracy and complained vigorously to Edward. In 1321, he had obtained at least partial restitution for his losses by arrests conducted by royal officers of Flemish merchants' goods. Petitions from 1319 indicate, however, that he may have taken matters into his own hands and carried out piracy / reprisals on his own, since in 1322 he was pardoned along with Batayle of offences committed at sea. In 1323, he took part in the piracy against de Vylar. Nevertheless, the next year he was appointed admiral.⁵⁸ These examples show how difficult it is to distinguish between pirates, merchants and admirals (that is, agents of crime, of trade and of war).

Another good example of the diversity of the background of the pirates is John Perbroun. He was a merchant from Great Yarmouth, but he served as bailiff of Great Yarmouth four times, held the office of admiral in 1322, 1323 and 1327 and acted as judge in maritime cases (amongst them at least one piracy case) in 1325 and 1327. In piracy, he had first-hand experience,

⁵⁵ *CPR 1321–1324*, p. 262.

⁵⁶ *CPR 1321–1324*, pp. 264 and 385.

⁵⁷ For another example, see Lucas, Henry S., "John Crabbe: Flemish pirate, merchant, and adventurer," *Speculum*, 20 (1945), 334–350.

⁵⁸ For the incidents involving Stephen Alard, see *CCR 1313–1318*, p. 461, *CCR 1313–1318*, pp. 258, 283, 400. *CPR 1321–1324*, pp. 107, 262 and 385, TNA: SC 8/233/11625, SC 8/233/11631, SC 8/192/9557, Salzman, "Family of Alard," p. 134.

for in 1316 he had assisted in the piracies on the ships from the Cinque Ports (from which he was pardoned), and in 1317 he and other men of Great Yarmouth assaulted a Winchelsea ship chartered by Rochelais merchants while it was coasting at Shorham.⁵⁹ These few examples show how piracy was in no way a hindrance to respectability and royal office. In fact, it may have been a benefit.

Some merchants seem to have been particularly unfortunate. In 1320, the London merchant Stephen Aleyn had loaded his ship, *La Margarete*, in Normandy for trade in England (he did not participate in the journey, however). The ship was pursued by Flemish pirates, and since the English feared that they would be caught if they continued to England, they pulled into Caux, which was under the abbot of Fécamp (whom they might have trusted, since the abbey owned lands in England). Here, they took the goods from the ship and deposited them for safety in the abbot's cell of Saint-Valéry-en-Caux. However, the abbot's men proceeded to confiscate the goods once they had been deposited.⁶⁰ And Aleyn's troubles continued. In 1321, while travelling from Sandwich to Berwick-upon-Tweed with victuals for the king's men there, *La Margarete* was captured by pirates on the sea-coast near Saltfleetby and taken to Zeeland.⁶¹ Thus, in two years Stephen Aleyn had been the victim of two different "piracies".

The predicament of five Rochelais merchants, who had chartered a Bayonnais ship to take 200 casks of white wine from Tonnay Charente to Calais, displays another unfortunate circumstance in maritime life. En route, the ship was attacked by Scottish pirates, who killed some of the crew and presumably took the rest captive. Possibly on the way to Scotland, the surviving crew members managed to retake the ship which they brought to Great Yarmouth. However, fortune did not smile on the merchants because at Great Yarmouth, pirates from Norfolk and Suffolk boarded the ship and took the wine.⁶² However, this account of events could also be a Bayonnais cover-up for a defrauding action of their own against the Rochelais. Indeed, cases like these demonstrate the problems of identifying exactly what had happened in the reported complaints over piracy.

⁵⁹ *CPR 1313–1317*, pp. 576 and 694, *CPR 1321–1324*, pp. 119, 143, 228 and 325, *CPR 1324–1327*, pp. 87, 136 and 354, *CPR 1327–1330*, p. 101.

⁶⁰ *CCR 1318–1323*, p. 259.

⁶¹ *CCR 1318–1323*, p. 398.

⁶² *CPR 1317–1321*, p. 186.

Another case of perfidious mariners is an incident from 1317, where Portuguese merchants had chartered a ship from Great Yarmouth in Leure to be taken to Flanders. Yet the shipmaster and the mariners cheated the merchants and set sail for Great Yarmouth instead. They put some of the merchants ashore at Dover, but took the others with them (probably as hostages) to Kirkley. Here the pirates went ashore, leaving only two mariners and a boy to look after the ship. These apparently could not manage the ship, which meant that it was lost (“se perist par defaute de eux”—presumably wrecked). The locals subsequently plundered the remains.⁶³

THE FATE OF PLUNDERED GOODS AND THE VICTIMS OF PIRACY

In the following I shall present cases illuminating the fate of the plundered goods, how pirates worked actively together with local residents, as well as authorities, and finally some reflections on the lethality of a pirate assault.⁶⁴

A recurrent feature in the complaints over piracy is that the goods were taken to a port and divided or that it was dispersed over a number of ports. This raises the question of how goods were identified by the authorities when inquiries were initiated. The identification of wine is of special interest in this book. In at least one source the tuns were marked, and Robin Ward states that goods were marked by colour⁶⁵ when shipped out and when imported and sold on land. Furthermore, the local customs must have registered what came into the port, and the shipmasters or merchants sometimes had a written charter of what goods they had loaded onto the ship.⁶⁶ Finally, mariners, stevedores and sometimes the alleged pirates could be questioned by the authorities as to the amount carried on the ships. Nevertheless, trade in contraband and plundered goods still seems rather extensive.

A case illustrative of the confusion over the values stolen, the composition of the cargo of plundered merchants and the unreliability of the recorded losses can be seen in an episode from 1317. In this case, two Gascon merchants, Gauselin Pagani and his brother Reymund, had laden

⁶³ TNA SC 8/238/11866.

⁶⁴ See also Russon, *Côtes*, pp. 77–80.

⁶⁵ *CPR 1313–1317*, p. 630 concerns a case of fraud, where it is mentioned that the tuns were marked “with the usual mark”, Ward, *Medieval Shipmaster*, pp. 59–60.

⁶⁶ Ward, *Medieval Shipmaster*, pp. 229–234.

a Goseford ship with forty-five tuns of wine and twenty-two barrels of wheat to the stated value of £300 sterling to be taken to England. While the ship was anchored at Les Dunes near the port of Sandwich, Flemish pirates attacked, plundered and took the ship with them to Sluis, where both ship and goods were sold. However, when the warden of the Cinque Ports, Robert of Kendale, inquired into the case, it turned out that the ship had in fact carried 109 tuns and fourteen pipes of wine at the price of £696 sterling (each tun at £6), seventy-seven quarters of wheat at the price of £77 (each quarter 20s.) and sixteen quarters of wheaten flour, price £16. In addition, the total cargo of the ship did not belong exclusively to the Pagani brothers but was instead divided thus: forty-five tuns and one pipe belonged to the brothers, sixty-two tuns to Grimoard Cardon', the wheat to Laurence de Molyn, and the rest of the wine, the wheaten flour, and other goods belonged to the master and the mariners. Furthermore, the total composition of the cargo and losses were in fact: ship with tackle, value £100; the beds, robes, armour, coffers, silver cups and jewels of the merchants and the mariners, value £20 sterling. The compensation for the damages awarded to the merchants was estimated at £80 in addition to the losses. The restitution due to the Pagani brothers was in the end: forty-five tuns appraised at £273 and £30 14s. of their portion of the compensation of the £80.⁶⁷ So, even though what the Pagani brothers claimed in compensation was not all that different to their actual cargo on the ship, this case shows the limitation of the source material in identifying the size of the ships used, as well as the uncertainty of the total value of its cargo, since each merchant could or would petition to the English king individually for restitution of their losses. Even when it looks as if the merchants complained collectively—which was not unusual—we still do not know how much of the cargo and valuables belonged to the crew. Thus, the records are flawed, because we cannot be certain that any given complaint contained all the losses suffered, or sometimes even how much of the cargo belonged to the petitioner.

Another way of identifying the stolen goods was the following: In 1308, an English merchant from Winchester had bought cloth at Ghent and Douai to take to England. As his ship made its passage to England, Flemish pirates attacked it by the sea-coast near Gravenyng (Gravelines?). They stole goods to the value of £1200, which they put into their two ships and then proceeded to Hulst. Apparently, the English had the nerve to

⁶⁷ *CCR* 1313–1318, pp. 385 and 456–458.

follow the pirates to Hulst, where they found their goods and demanded restitution.⁶⁸ Thus, the victims actually made the effort themselves to find and identify the goods immediately after the assault. However, this case must be considered quite unusual, since normally the crews were probably too scared to pursue the pirates.

Pirates rarely worked alone, yet the details of the relationship between pirates and fences on land are seldom mentioned in the sources. We do have evidence for two cases, however, detailing collusion between authorities on land and pirates. In 1312, Bartholomew de Welle, a merchant and mariner of Lynn complained that John le Clerk, a mariner and merchant of Goseford, had boarded a ship of Bartholomew's charged with wine.⁶⁹ In December 1311, the ship was anchored because of tempestuous weather at the Paleis de Reith near the Island of Oléron. John and his armed associates twice entered the ship,⁷⁰ violently took some goods, three anchors and the cables of the ship,⁷¹ and then with their own ship broke and wrecked Bartholomew's ship, causing the loss of the wine and cargo to the value of £600. Bartholomew immediately complained to the provost of La Rochelle, and he had several shipmasters and mariners who had witnessed the assault to testify and by oath assure that Bartholomew spoke the truth. The provost made a sealed deposition of the event and the witnesses, which he then gave to Bartholomew so that he could take John to court when he located him. Then Bartholomew searched for John along the Breton and French coast, but he did not find him until he came to London. Here Bartholomew summoned John to court with the sheriff Richard of Welleford. The ship was located and identified by the stolen cables and anchors, and the sheriff detained it. During the initial hearings, it was apparent that John had committed a crime against Bartholomew and that, according to the rules of the Law Merchant,⁷² he should

⁶⁸ *CCR 1307–1313*, p. 130. The merchants were granted partial restitution later, pp. 358–359.

⁶⁹ This case is documented in TNA SC 8/149/7441, *The Parliament Rolls of Medieval England*, eds Chris Given-Wilson, et al. (Scholarly Digital Editions, Leicester, 2005), parliament of August 1312, SC 9/17, item 6, *CPR 1313–1317*, pp. 147–148, 231–232 and 323–324.

⁷⁰ On the 20th and then during the night of the 25th of December.

⁷¹ Ward notes that it was an absolute necessity to have two or more anchors for the ships to be able to anchor safely. Accordingly, the anchors were extremely valuable, and by taking them, the ship was de facto unable to trade and had to be run aground with all the risks and damages to the ship this entailed. Ward, *Medieval Shipmaster*, pp. 167–170.

⁷² Law Merchant—or *Lex Mercatoria* as it was known in the Middle Ages—was a body of customs and regulations for commercial transactions. It was furthermore international in scope and thus not subject to the jurisprudence of a particular kingdom or principality.

pay compensation to Bartholomew. Nevertheless, the sheriff refused to pass judgment. Instead, he led John go and stalled the case for twenty-one weeks. When the day of trial arrived and Bartholomew showed up, he was told that there would be no trial that day since the sheriff was occupied elsewhere.⁷³ However, when the sheriff was certain that Bartholomew had left, he ordered his clerks to go to the London Guildhall and tell the notary of records that, due to Bartholomew's absence on the day set for court, John was quit of the charge and that Bartholomew was to be amerced for nonsuit. When Bartholomew found out what had happened, he complained to the mayor of London, who refused to help him. Consequently, Bartholomew appealed to Edward II, and the case continued until at least 1315 before Bartholomew finally obtained justice. While the exact details of the case elude us, it shows how a man like John le Clerk, who was on good terms with the sheriff, could be protected by those in power (probably in return for some of the loot). It seems clear that we are dealing with a case of corruption. While it was probably not uncommon, we unfortunately cannot tell how widespread this collusion between pirates and local authorities was.

Another incident further illustrates the fate of stolen goods, as well as collaboration between port officials and pirates. In or before 1318, *La Swalewe* of London, charged with goods by London merchants, was captured by Flemish pirates while it was anchored at Margate. The pirates slew the whole crew, except for a boy who was brought with the pirates and kept in Flanders for a year. The ship and its cargo was taken to the Zwin. Previously, the count of Flanders had promised justice and punishment if the pirates were found in his lands, but later inquiries into the case showed that the pirates, some of whose names were familiar to the English authorities, were in league with John le Gos, who at that time was the count's bailiff at Leschufe. Furthermore, it transpired that the wine had been delivered to the count's household by a middleman. Apparently John had also appropriated a dog found in the ship and the charter of the freight. One of the pirates (?), Quintin Lampescue, had sold the ship to his brother, John Lompesone, who "repaired" it so that it could not be recognised again (perhaps by repainting it?).⁷⁴ Apparently, however, the refitting

⁷³ The 20th of July, 1312.

⁷⁴ "repaired it otherwise than it was before in order that it should not be recognised", *CCR 1313–1318*, p. 593. For a similar case of collaboration between pirates and Flemish bailiffs, see *CCR 1323–1327*, p. 175 and Jones, Michael, "Roches contre Hawley: la cour anglaise de chevalerie et un cas de piraterie à Brest, 1386–1402," *Mémoire de la Société d'histoire et*

of the ship did not work, or perhaps the English recognised the dog and drew their conclusion regarding John's role. In any case, they seem to have had evidence enough for their complaint. John Lompesone's "repairing" of the vessel is quite interesting, since it is the only time that I have come across this description of the fate of the taken ships. Despite this single reference, I suspect that it probably was not unusual for captured ships to be treated in this way, since ships were quite valuable. By "repairing" it, the shipmaster could sail out again and continue trading with a diminished risk of identification of the ship by the former owners.

An example from 1318 shows that it was not only port officials who benefitted from collaboration with pirates. In this case, German merchants sailing to Boston were attacked at sea near Ravenser. The pirates killed the shipmaster and the crew and threw the corpses into the sea. The pirates, who were later identified, took the ship and the goods to the land near Ravenser, where they divided the goods and sold part of them to men privy to the trespass. Thus, the royal order to the English officials was to prosecute not only the pirates but also the receivers of the goods.⁷⁵

This last case raises another significant issue in these piracy cases, namely how lethal pirate attacks might be. Popular as well as scholarly perception, founded on the Ciceronean paradigm, has it that pirates are an especially blood-thirsty breed of criminals.⁷⁶ While the above-mentioned example indeed supports this notion,⁷⁷ the picture is more nuanced in the end. After all, armed robbery is one thing, but wholesale slaughter is quite another, and usually pirates do not seem to have been remorseless killers.⁷⁸

d'archéologie de Bretagne, 64 (1987), 53–64. In a research note, Francis Davey has investigated who bought the pirates' wine in fifteenth-century Cornwall. He notes that the clergy of Exeter seem to have received large parts of the wine. Davey, Francis, "Who bought the pirates' wine?", *Devon and Cornwall Notes and Queries*, 39 (2005), 242–250.

⁷⁵ *CPR 1317–1321*, pp. 284 and 364–366.

⁷⁶ See, for instance, Gruffydd, "Piracy, privateering," pp. 24–25, Rodger, *Safeguard*, pp. 115–116.

⁷⁷ Another example of this can be seen in 1327, when a Flemish ship was boarded by pirates at Whitby. The master, the mariners, nine Scottish merchants, sixteen Scottish pilgrims and thirteen women were killed. This case is exceptionally brutal though. *CPR 1324–1327*, p. 354.

⁷⁸ Indeed, Barbara Hanawalt's and A.J. Finch's research indicate that use of deadly violence was rare amongst the commoners in the Middle Ages. Hanawalt, Barbara, "Violent death in fourteenth- and early fifteenth-century England," *Comparative Studies in Society and History*, 18 (1976), 297–320, Finch, A.J., "The nature of violence in the Middle Ages: An alternative perspective," *Historical Research*, 70 (1997), 249–268.

This represents something of a paradox. The logical expectation would be that the pirates killed off the entire crew in order not to leave witnesses. However, a good number of the pirate attacks described in the sources was relatively non-lethal. It seems as if those killed in a regular attack were defending themselves in the initial combat, but once the crew had surrendered, they were often either held captive or simply set free.

But this begs the question of why pirates did not kill the crew. First of all, the occasional pirates-cum-mariners were mostly just looking for easy gain. Furthermore, they apparently did not seem to be too worried about repercussions, either by officials or from the friends, families or guilds of their victims. What seems to have prompted the killing of crews was less the fear of identification and prosecution but rather that the crews were the enemy, either of one's country, or more narrowly, one's port. Thus, many of the killings happened in times of war, such as during the conflicts between the Anglo-Bayonnais and the Normans in the 1290s or between the English and the Flemings in the 1310s and early 20s, when Flemish pirates in league with the Scots harassed English shipping.

Pirates sometimes also took prisoners, presumably to obtain ransom. For example, in 1318, the ship of a group of London merchants, anchored at Kingsdown near the port of Sandwich, was plundered by Flemish pirates, who killed the entire crew except for three and then sank the ship.⁷⁹ In this example, it appears that the Flemings only spared those whom they thought would be able to pay a ransom. This, at least, was what happened in the case of a pirate attack in 1319, when Lynn merchants, sailing from Lynn to Gascony to trade, were plundered by Flemish pirates near Sheringham (co. Norfolk). The crew was slain except for two, who were taken prisoner and brought to Scotland. Here they were imprisoned in Berwick-upon-Tweed, and one of them was sold to a Zeeland merchant for £20 sterling, while the other crew member was still detained in prison at the time of the petition.⁸⁰

There was an obvious financial interest in the taking and ransoming of hostages, but this practice also shows that pirates were not always blood-thirsty monsters. In 1311, Edmund de Trevelwythe complained to the king that one of his ships was boarded in the port of Fowey by the co-owner, John Stonhard of la Welle, and some mariners. Edmund was expelled from

⁷⁹ *CCR 1313–1318*, p. 594.

⁸⁰ *CCR 1318–1321*, p. 216. A case from 1324 further clarifies the identity of the imprisoned. Here it is stated the merchant and his son were imprisoned for some time (presumably until ransom was paid). *CCR 1323–1327*, p. 175.

the ship, wounded and then taken to Lostwithiel, where he was imprisoned. Then John sailed away to the Continent to sell his goods.⁸¹ It seems as if he did not have the heart to kill his former partner.

The indiscriminate killing and total destruction mostly occurred in the vicious maritime wars waged by the Portsmen, the Normans, the Bayonnais and the Castilians. These wars will be dealt with more thoroughly in chapter 4, but it is worth noting that the savagery of these wars was due to other concerns besides immediate enrichment.

This chapter has demonstrated the numerous problems with researching piracy. First of all, there is the problem of identifying the ships used. While it would seem that much piracy was conducted by the population along the coasts in small vessels using sails as well as oars for propulsion, the sources show that all kinds of vessels could and were used in these endeavours.

The sources also show that the pirate assaults seem to have occurred mainly along the coasts and the straits where the confined waters gave an advantage to the pirate, since their prey would be easier to apprehend here. Furthermore, the sources indicate that pirates seem to have favoured a swarming tactic, where they aimed at overwhelming and capturing their prey by numerical superiority combined with geographical conditions which favoured surrounding tactics. However, much piracy also occurred in or just outside the ports, since potential prey was easier to locate here than on the open sea. While these pirate attacks often seem premeditated, many mariners and merchants were not above a little occasional piracy when they went on trading voyages abroad. Simply put, if they saw potential prey and felt confident that they would be victorious, little seem have stopped them trying to capture the ship and its cargo.

The chapter further demonstrates that pirates often worked with the local coastal and port communities. The exact details of this relationship often elude us, but some significant examples show the collusion between local officials and pirates.

⁸¹ *CPR 1307–1313*, pp. 424 and 537.

CHAPTER THREE

PORTS AND WINE

Medieval piracy was often opportunistic, as sketched in the previous chapter. However, some mariners and ports were especially bellicose, and their piracies quickly developed into maritime wars irrespective of the state of affairs between the kingdoms that they were part of. Several maritime communities were often engaged in “collective” pirate wars. The Normans, Bayonne and the Cinque Ports, which I shall describe in this chapter, were frequently involved in such wars. While it is beyond the scope of this book to conduct an analysis of every bellicose maritime community in the northwestern maritime theatre, I will remark that the Flemings are abundantly represented in the complaints over piracies, and the Castilian ports waged several maritime wars against Anglo-Gascon mariners. Likewise, the mariners of the West Country, who in the following centuries acquired a reputation for piracy, are increasingly present in sources in the fourteenth century.

For the period from c. 1280 to c. 1330, these wars seem in part motivated by the expansion of wine exports from Bordeaux. Accordingly, the latter part of the chapter is devoted to the wine trade and the installations of the merchants from the bellicose maritime communities along the coast to facilitate that trade. However, these installations also meant that mariners and merchants continually came into contact and conflict with each other, and they might also have functioned as a communications network which could have a stimulating effect on the escalation of maritime war, since the news of piracies against fellow-citizens could travel far and fast.

BAYONNE

The town of Bayonne is located in the southwestern part of the Duchy of Gascony at the foot of the Pyrenees in Labourd. The town centre was founded on a Roman *castrum* on the hill, which overlooked the confluence of the rivers Nive and Adour, the latter terminating in the Gulf of Gascony, near Capbreton, thereby giving access to the Atlantic. This *castrum* presumably gave Bayonne an edge over the neighbouring coastal towns of Capbreton, Biarritz, and Saint-Jean-de-Luz, all founded on sandy

ground which made erection of fortifications difficult. From at the least the twelfth century, this allowed Bayonne to dominate these towns, which were effectively to be seen as Bayonnais subject towns. In the twelfth to the fourteenth centuries, the estimated population of Bayonne was 7,000–10,000 inhabitants, who were Gascon, not Basque speakers. While their dialect was influenced by the dialect of Béarn, the maritime language included words from Langue d'Oïl, Flemish and perhaps even some Scandinavian, an indication of the influence of maritime trade on the town.¹

The Labourd region was rather poor in terms of local produce. Not much wheat was produced there, and the local wines and ciders were of a rather low quality. Initially, this meant that the region could not claim a high population or riches of any significance. It was, however, rich in wood (and to a certain extent iron), and combined with the protected position near the Bay of Biscay, this meant that from an early date the Bayonnais seemed destined to take to the seas to make their fortune.

Bayonne was ruled by a council founded on the town charter used in Rouen and in northern France. In the Bayonne town charter from 1215, it was established that Bayonne was to be governed by the *cent-pairs* or the *jurati*, consisting of a mayor, twelve magistrates, twelve councillors and seventy-five peers. These men were elected for one year at a time in April, and the residing peers chose their successors. As for the appointment to the mayoral office, the *jurati* presented three candidates to the English king, who then chose the mayor. Upon entry to office the *jurati* swore allegiance to the king of England. The *jurati* had judicial and administrative powers, but the key figure in the local government was the mayor, who alone presided in the daily communal court. The mayor (who often had a military background) was furthermore the chief of the local law enforcement and the militia, and he handled the town finances together with the councillors. The citizens of Bayonne had a right to be judged by the mayor and the *jurati*, but the English king was not absent in Bayonne. The provost of Bayonne was the king's representative, and apart from being the executor of the judgements of the council, he handled the royal fiscal rights in Bayonne, even though every year he was obliged to take an oath to the town. Furthermore, there was a castellan in charge of the castle. At the end of the thirteenth century, this office was merged with the office of provost. The royal presence in the town served to maintain the peace

¹ Goyheneche, Eugène, *Bayonne et la région bayonnaise du XII^e au XV^e siècle* (Bilbao, 1990), p. 178.

between the different oligarchic factions in the town and in part served to reward particularly loyal subjects from the factions.²

From at least the 1270s, local politics was governed by two rival parties or factions. The first was called the “aristocratic” faction by Jules Balasque. It consisted of merchants, land-owners and jurisconsults. Until 1295, the leader of the faction was the de Manx family headed by the bishop of Bayonne, Dominique de Manx. The second faction, called the “popular” party by Balasque, was made up of shipmasters, mariners and craftsmen, headed by the de Viele (or Biele) and the d’Ardayr families.³ These three and several other magnate families had been running Bayonne throughout the thirteenth century, and while Balasque uses the terms “aristocratic” and “popular”, the leaders of factions were more precisely the richest and most powerful men of the town. While the de Viele and D’Ardayr families seem to have made a significant part of their wealth from maritime commerce, the so-called aristocratic faction also contained mariners and shipmasters like Miqueu de Manx (the bishop’s relative who came to be a trusted naval officer of Philippe le Bel).

Throughout the thirteenth century, Bayonne faithfully supplied important naval support (ships and galleys), as well as valued crossbowmen, to the English kings’ wars in France and Wales. Bayonne also functioned as a royal ship wharf where the English king ordered ships and galleys to be built for himself and his allies.⁴ This service continued until the first phases of the Hundred Years War, but after about 1350 the significance of Bayonne in naval terms inexplicably declined.⁵ The quality of the Bayonnais warriors and their bellicosity and predilection for retaliation was a product of the numerous private wars in Gascony.⁶

As a consequence of the maritime war with the Normans in 1292–93, the French confiscation of Gascony and the ensuing Gascon War, Bayonne was occupied by French forces from February 1294. The occupation led to an alliance between the French and the de Manx family and others of the aristocratic faction, while Pascal de Viele and several mariners had

² Hourmat, Pierre, *Histoire de Bayonne* (Bayonne, 1986), pp. 58–65.

³ Balasques, Jules, *Etudes historiques de la ville de Bayonne*, 3 vols (Bayonne, 1862–75), II, 206 and 436, Hourmat, *Histoire*, p. 69.

⁴ Goyheneche, *Bayonne*, pp. 304ff.

⁵ Rose, Susan, “Bayonne and the king’s ships, 1204–1420”, *The Mariner’s Mirror*, 86 (2000), 143–145.

⁶ Vale, *Origins*, p. 211. Rodger claims that Bayonne, rather than the Cinque Ports, was the backbone of the English navy in the thirteenth and fourteenth centuries. Rodger, “Naval Service,” p. 647.

to flee to England, because they were implicated in the maritime war between Bayonne and the Normans and especially in an attack on La Rochelle in 1293.⁷ In December 1294, Bayonnais mariners under Pascal de Viele launched a surprise attack on French-occupied Bayonne.⁸ In a few days, the French forces and their allies in the aristocratic faction were forced to evacuate the town, and Bayonne became the only strongpoint for Edward I in French-occupied Gascony. This liberation at the hands of de Viele and the mariners meant that the aristocratic faction was more or less destroyed, as several prominent members had to flee with the French, and the remaining members suffered repercussions (loss of property and imprisonments for their suspected collaboration with and sympathy for the French) at the hands of the victorious popular faction under Pascal de Viele.

For this liberation, the de Viele family, the popular faction and the mariners were awarded privileges by Edward I. Pascal de Viele was made mayor, provost and castellan of Bayonne for the duration of the war, and he and others implicated in the attack on La Rochelle (that is, before the Gascon War broke out) were promised protection against possible future French suits in relation to this.⁹

Another sign of the close relationship between the Bayonnais and Edward I was that Bayonnais merchants loaned Edward £45,763 sterling, a much needed sum of money in the Gascon War which cost Edward £400,000 sterling. What is even more remarkable is that Edward actually repaid the Bayonnais between 1299 and 1304, using revenues from the English customs, one of the few loans that he ever repaid.¹⁰ From this point on, the de Viele and d'Ardyr families ruled Bayonne continuously till 1312 and indeed continued to play a significant role in local politics throughout the first decades of the fourteenth century.

However, while the Bayonnais were loyal subjects of the kings of England, their actions during and in the wake of the War of Saint Sardos show that their loyalty to the king was not iron-clad. In 1325, Edward II urged the Bayonnais to arm for war and promised them the right to keep all spoils taken from the king's enemies at sea for themselves.¹¹ Nevertheless, the mobilisation never materialised before the truce in autumn 1325,

⁷ Hourmat, *Histoire*, p. 74, Goyheneche, *Bayonne*, p. 309.

⁸ Goyheneche, *Bayonne*, p. 269.

⁹ Champollion, I, 422–423.

¹⁰ Vale, *Origins*, p. 194, Prestwich, Michael, *Edward I* (London, 1988), p. 399.

¹¹ Hourmat, *Histoire*, p. 80, Goyheneche, *Bayonne*, p. 305.

even though the Bayonnais must have been in a state of vigilance since at least 1323 (see chapter 7), as a maritime war with the Normans was threatening to break out again. In fact, in 1326, Bayonnais mariners transported Queen Isabella and her forces to England. Thus, they actively aided in the *coup d'état* which deposed Edward II. Consequently, they assured themselves a prominent place in the new regime, and the mariners who transported Isabella were rewarded accordingly.¹²

The statutes of the Bayonnais mariners' association also express loyalty to the English Crown. The statutes of the *Societas Navium Baionensium*, probably from between 1206–13,¹³ stated in detail the rules of commerce and freight for the mariners of Bayonne. It was essentially an association for mutual aid and assistance intended for common freight charges and convoys for those voyaging to La Rochelle, Bordeaux, Royan and Oléron. Its statutes did not extend to those going further north to Flanders, the English Channel or England, however.¹⁴ The association swore allegiance to the king of England, rather than the town of Bayonne, even though another obvious goal was to work equally for personal profit as well as for the good of Bayonne. The association comprised two kinds of members, *rectores* and *naute*, that is, shipmasters and mariners.¹⁵ Upon entry into the association, the mariners had to swear allegiance to the shipmasters, and the masters to the *custodes* of the association. These *custodes* functioned as the financial and judicial authority of the association.

The *Societas* was open to all English subjects, not just Bayonnais and *voisins*. A *voisin* (or *vesin* as it was called locally) was the term for citizenship of Bayonne obtained either by birth, marriage with a Bayonnais(e) or by staying for a year and a day in Bayonne. In fact, if a person had stayed in Bayonne for this length of time, he was obliged to become a citizen and to swear allegiance to the mayor, the town and the king of England. The *voisin* was obliged to be ready to protect and defend Bayonne and never to betray a fellow *voisin* to a jurisdiction other than the municipal one. In return, the *voisin* was to enjoy the franchises and privileges, like toll-exemptions, conceded by the duke of Gascony to Bayonne.¹⁶ This had implications for trade and Bayonnais influence, as I will show below,

¹² Hourmat, *Histoire*, p. 80.

¹³ The only known copy of the statutes is, however, from after the death of King John of England, 19 October 1216. Goyheneche, *Bayonne*, p. 314.

¹⁴ Rose, "Bayonne," p. 140.

¹⁵ Goyheneche, *Bayonne*, p. 222.

¹⁶ Hourmat, *Histoire*, p. 60, Balasques, *Etudes historiques*, II, 370–371.

and it meant that the maritime conflicts in which the Bayonnais mariners were engaged cannot be seen as “ethnic” conflicts. This also corresponds to the general picture of the multi-ethnic character of the international mariners’ community.¹⁷

The primary purpose of the association was mutual assistance and division of profits for trade in convoys, which was probably the initial reason for creating the association. The Bayonnais ships were obliged to sail in convoys, usually of four to six ships, serving the purpose of protecting the members from undercutting each other’s business. However, the hazards of storms and piracy also seem to have been an important impetus for the creation of the association, and the members had an obligation to help each other in case of both storm and piracy.¹⁸

The association also had a clause for military aid to the kings of England. In the preamble it is stated that mariners and shipmaster were to aid the English king against his enemies.¹⁹ Furthermore, in articles 6 and 16 it is stated that the Bayonnais should help each other valiantly on sea as well as on land, and with force when necessary, *wherever they are*, to the honour of the king of England.²⁰ Finally, article 20 stated that the mariners and the masters should be armed at all times to defend against the enemies of the English kings and should be able to deliver military support to the king in war.²¹ While these statutes obliged the Bayonnais mariners to be ready at all times to fight the English king’s enemies, it

¹⁷ Kowaleski, Maryanne, “‘Alien’ encounters in the maritime world of medieval England,” *Medieval Encounters*, 13 (2008), 96–121. I do not, however, agree with Kowaleski’s picture of the peaceful international mariners’ “confraternity”. The piracy cases treated in this book abundantly demonstrate ardent hatred and rivalries.

¹⁸ Goyhenche, *Bayonne*, pp. 317–319.

¹⁹ “rectores et naute navium Baionensium constituerunt inter se societatem, que dicitur Societas navium, de assensu et voluntate totius populi Baionensium, ad honorem Dei et beate Maria et omnium sanctorum, salvo jure et fidelitate domini sui, Regis Anglie, et suorum heredum, et, cum fuerit, ad eorum inimicos infestandos.” *Recueil d’actes relatifs à l’administration des rois d’Angleterre en Guyenne au XIII^e siècle*, ed. Charles Bémont (Paris, 1914), p. 149.

²⁰ “§6 Porro, naves Baionenses, ubicumque fuerint, debent se juvare et auxiliare adinvicem in suis negociis et necessitatibus pro cujusque comodo et honore, ac exaltatione domini sui, regis Anglie, et suorum, viriliter et potenter. §16 Debent quoque se coadunare ubique, tam in mari quam in terra, pro suo comodo et honore domini sui, regis Anglie, sublimando, bona fide et pro bona intencione.” Bémont, *Recueil*, pp. 150–151.

²¹ “Quicumque poterit, habeat immunionem ferram; et quilibet marinarus, quicumque fuerit, custos vel... [three quarters of the line is blank in the manuscript] dominus duodecime partis navis, habeat imunionem ferream, et alii, quicumque poterunt bono modo, vel ad minus, perpunctum et capellum de ferro, ut possint defendere [se] ab inimicis et effugare hostes domini sui, Regis Anglie, si tempus guerre ingruerit.” Bémont, *Recueil*, p. 151.

also meant that they were armed for pursuing personal quarrels, piracies and wars.

In the 1310s and 1320s, significant changes in the association took place. The traditional *Societas Navium* was composed of independent individuals who had an obligation of mutual aid and sharing of profits. The *Societas* was independent of the municipal authorities of Bayonne and, formally, the town had no power over it and did not receive any direct income from it. Furthermore, at least initially, the shipmasters were also the owners of the ships, and all regulations on freight were solely the issue of the masters and were regulated amongst them. However, the economic prosperity of the thirteenth century allowed the former shipmasters to become landlocked merchants who did not have to run the risks of taking to the seas themselves any more. This meant that by the fourteenth century, the shipmasters owned an ever-diminishing part of the fleet and were reduced to the status of employees of the merchants who did not take to the seas any more. These landlocked ship- and cargo owners were subject to communal jurisdiction. Political reforms from 1317 to 1326 completely changed the status of the association. Under different mayors and the provost-castellan, the association was changed so that the shipmasters now pledged loyalty to the mayor of Bayonne, not to the kings of England. The owners now took two-thirds of the proceeds of the profits, and the masters were obliged to go where the owners demanded. While the shipmaster still ruled the mariners, he, in turn, was to answer to the mayor. The fines which before went to the *Societas* were now wholly or in part to be paid to the town of Bayonne, with the shipmasters as the immediate executor, rather than the former *custodes*. Upon arrival in Bayonne, the shipmaster had to give account to the mayor by sermon of fines incurred and crimes committed during the voyage. When a person became a shipmaster, he had to swear allegiance to the mayor. Furthermore, the mayor extended the jurisdiction of the communal court to encompass the Bayonnais vessels wherever they were, and the town received half of all fines.²² These reforms also seem to have reduced the Bayonnais mariners' inclination to engage in piracy and maritime war (see chapter 7).

The final changes were expressed in 1326 in the decrees of mayor Jean d'Ardayr. The *Societas* had now effectively come under the rule of the mayor of Bayonne.²³ A possible consequence of these changes is that piracy and

²² Goyheneche, *Bayonne*, pp. 323–326.

²³ Printed in Balasques, *Etudes historiques*, III, 522–529.

the will to pursue maritime quarrels by violence became diminished, as the owners, in a cost-benefit perspective, saw less attraction in piracy and an increase in the risks. In a sense, piracy did not pay any more, and this may be the final cause for the decline in Bayonnais naval importance and service after 1350.

THE CINQUE PORTS

The confederation of the ports of southeastern England, known as the Cinque Ports, had its origin in the eleventh century. Originally, it consisted of the ports of Dover, Hastings, Hythe, Romney and Sandwich, but in the twelfth and thirteenth centuries the confederation expanded to encompass more than thirty ports in Kent and Sussex. These later-added ports were attached to one of the original five and their privileges. However, they did not enjoy all the privileges of the “mother-port”, but rather a selection of them, though later in the thirteenth century, Winchelsea and Rye were granted an intermediary status almost equal to the one enjoyed by the original five.²⁴

It is difficult to tell how big these ports were. Sandwich has been estimated at 5,000 inhabitants in 1300.²⁵ However, Sandwich was one of the bigger towns of the confederation; most of them were probably smaller.

The purpose of the confederation was to provide defence of the coast, mainly through the supply of ships and men to the king, and to prevent invasion of England. However, the ports themselves also had an interest in association in order to protect their privileges and their common economic interests, mainly in trade and fishing.²⁶

The relationship of the Ports with the Crown in the thirteenth century was characterised by unruly behaviour and outright rebellion. In 1216, when the French invaded England, the Ports did nothing to stop them. Not until four months after the death of King John did they finally rally to the cause of King Henry III, and in 1217 they defeated a French fleet bringing vital reinforcements and supplies to the French forces in England. During the baronial unrest in 1260–65, they wavered in whether to support the rebels under Simon de Montfort or King Henry III. In 1264,

²⁴ Brooks, Frederick W., “The Cinque Ports,” *The Mariner’s Mirror*, 15 (1929), 143.

²⁵ Clarke, Helen et al., Sandwich. *The “Completest Medieval Town in England”* (Oxford, 2010), p. 61.

²⁶ Murray, K.M.E., *The Constitutional History of the Cinque Ports* (Manchester, 1935), p. 1.

they decided for the rebels, and even after the royal defeat of the Montfortians, the Ports continued in their defiance of the king by indiscriminate piracy. When Henry III attempted to fine them for their support of de Montfort, they proceeded to attack and burn Portsmouth in retaliation. In March 1266, a settlement with the Ports was finally reached, but scant punishment was meted out for their support of the rebels.²⁷ Ironically, while it is quite difficult to determine what privileges the Ports enjoyed in the twelfth and first part of the thirteenth century and when they were conceded,²⁸ it seems as if it was exactly these acts of unruly behaviour which were the reason for the confirmation and expansion of the privileges of the Ports, especially expressed in the royal charter to the Ports from 1278. This was most probably a royal initiative to buy the loyalty of the Ports.

Constitutionally, the charter of 1278 was important, since contrary to earlier charters records, it was given to the five original ports and Winchelsea and Rye collectively, and not individually. The charter granted the Ports a number of privileges due to their naval service in Edward's war against Wales the previous year.²⁹ In the charter of 1278, which listed the rights and exemptions of the Ports, three outstanding clauses were noted. The first was the right of the Portsmen to carry a canopy over the king at his coronation. The second was the right to "den and strand" at the annual herring fair in Great Yarmouth,³⁰ which also meant the administration of justice over the Portsmen's "territories" during the fair. Third, these privileges were given by the Crown in return for a fixed annual quota of fifty-seven ships fully armed and manned for fifteen days' royal naval service with no charge.³¹ This charter represented the combination of local and royal interests, which essentially served to secure the confederation and its institutions officially. These liberties were repeated in 1290 and extended in 1298.³² In 1282, the Portsmen served again against the Welsh,

²⁷ Murray, *Constitutional History*, pp. 34–40.

²⁸ Murray, *Constitutional History*, pp. 16 and 28–29.

²⁹ Murray, *Constitutional History*, p. 29.

³⁰ On Great Yarmouth, see, Saul, Anthony, "English towns in the late Middle Ages: The case of Great Yarmouth," *Journal of Medieval History*, 8 (1982), 75–88, Saul, Anthony, "The herring industry at Great Yarmouth c. 1280–c. 1400," *Norfolk Archeology*, 38 (1981), 33–43, Saul, Anthony, "Great-Yarmouth and the Hundred Years' War in the fourteenth century," *Bulletin of the Institute of Historical Research*, 52 (1979), 105–115.

³¹ Printed in Brooks, "The Cinque Ports," pp. 190–191.

³² Murray, *Constitutional History*, pp. 7 and 29.

and in the fourteenth century they fought in the campaigns of Edward II against the Scots.

While there was a difference in the specific privileges enjoyed by the individual ports in the confederation (because these depended on the terms on which they had been made affiliated members), all Ports-men could enjoy the general privileges of the confederation, especially the lucrative rights at the Yarmouth fair, the freedom from toll and the immunity from being judged at any other court but their own, the court of Shepway (see below). Furthermore, it gave a sense of unity and security, as infringements of the privileges of one Portsman essentially meant the infringement of the privileges of the whole confederation. Consequently, people would think twice before they crossed a Portsman, since potentially they could incur the wrath of the whole confederation.³³

Despite the unruliness of the Ports, the kings were not without control over them. At the beginning of the thirteenth century, several judicial and administrative duties were carried out by local royal officers. The Cinque Ports' support of Simon de Montfort, however, made it clear that the royal presence in the ports was inadequate. Therefore, in 1268, a superior royal officer of the Cinque Ports was appointed. This was the warden. This title was furthermore merged with the office of constable of Dover Castle, in that the person appointed warden was also appointed constable of Dover. While these titles in theory were distinct, in practice they were united. For ease of reference, I shall henceforth call these officers the Warden-Constable. The duties of the warden were essentially those of a sheriff (that is, judicial and administrative). He had little influence in maritime affairs. The purpose of the office of warden was to satisfy the needs of both the kings and the Ports-men. For the king, he functioned as a direct channel of communication and organisation of the confederation. The Ports-men, for their part, benefitted from the warden by having an official leader who could confer unity to confederation, and while the warden was royally appointed, he had to swear to uphold the liberties of the Ports before exercising his office. In itself, the commission of the warden was somewhat weak, but by combining it with the constabulary and castle of Dover,³⁴ he obtained a fortified base in the middle of the confederation and a military force to back up his authority. Furthermore, by residing

³³ Murray, *Constitutional History*, pp. 49–52. For an example, see *CPR 1317–1321*, p. 557.

³⁴ The Castle of Dover lay outside the county and the Cinque Ports' liberty. It disposed of its own residential court, initially only for conviction of people in the constable's service. However, this court was often used by the Warden-Constable for jurisdiction in suits

in Dover, it was easier for the Warden-Constable to control and monitor communication with the Continent.³⁵ Thus, the office of Warden-Constable was essentially a compromise between the Ports and the king. On the one hand, it provided the king with a reliable officer with a wide range of powers at his disposal, and on the other, it provided the Ports with unity and a royal officer charged with protecting their privileges.

One of the most important charges of the Warden-Constable was his role as judge at the Court of Shepway. One of the privileges of the Portsmen was the right to be judged by their peers (that is, fellow Portsmen) at their own court.³⁶ The court served three different interests. Firstly, it served those of the king, as it was presided over by the Warden-Constable, thus providing the king with a measure of control over the court. Secondly, the court was a source of unity for the Ports themselves, and it assured their privileges by removing them from other courts of appeal. Furthermore, the officers (that is, mayors) of the Ports were judges at the court, and the Warden-Constable could not pass judgement without their assent. Thirdly, the court served the Warden-Constable in maintaining his role as an intermediary between the Ports and the king, since as judge he strengthened the unity of the Ports by appearing as a spokesman and advocate of their claims. However, as head of the court he also preserved a measure of power for himself over the Portsmen.³⁷ The Shepway court was primarily concerned with the interests of the king, or suits against or involving the Ports collectively. In the thirteenth century, many Portsmen claimed and received the right to plead their cases in Shepway and not at the location where they were indicted. In effect, they would only be judged by their own, and claimed immunity from being judged by external judges. In 1314, according to K.M.E. Murray, it was decided in Parliament "that the liberty [of the Shepway court] might be claimed only when Portsmen were impleaded outside their liberties for intrinsic pleas, and not in foreign pleas. This was a necessary reform as the Portsmen were using their liberties to provide shelter to criminals, and especially pirates".³⁸

which had taken place outside the castle area, even though this mixture of the offices was in principle prohibited. Murray, *Constitutional History*, pp. 102–103.

³⁵ Murray, *Constitutional History*, pp. 77–93.

³⁶ The Portsmen also disposed of the courts of Brodhull and Guestling, but we know very little about their functions in the thirteenth century. Murray, *Constitutional History*, p. 138.

³⁷ Murray, *Constitutional History*, pp. 60–61.

³⁸ Murray, *Constitutional History*, pp. 70–71.

The citizens of the Cinque Ports were often termed “barons”. In the early twelfth century, the title “baron” meant little more than mature men of affairs and had nothing to do with a claim to nobility. Indeed, the leading citizens of London were also called barons. However, in the latter part of that century, the term began to change to denote a socially elite group of men around a prince, even though it would not become a title of nobility until a hundred years later.³⁹ While the Portsmen were not nobles, they maintained and defended the title throughout the Middle Ages. Murray speculates that they might have maintained this title because the position of the Portsmen was similar to that of the feudal tenant-in-chief holding his land in return for knight service, thus an indirect reference to the military service that they owed the Crown. However, she also argued that the Portsmen, in the legal and diplomatic records in the thirteenth century, were judicially associated with the magnates and clergy of England in that they, like this elite, were only to be judged by their noble peers of the English realm.⁴⁰ According to Rachel Dressler, “baron” referred to the fact that the citizens held property directly from the king,⁴¹ and it is furthermore likely that the honour conferred on the Portsmen at the royal coronation bolstered at least the Portsmen’s own view of themselves as akin to nobility. Thus, like the Bayonnais, they enjoyed a special and privileged judicial relationship with the English kings.

Murray and Frederick W. Brooks claimed that the Portsmen were originally fishermen, and the Portsmen’s initial and primary concern was to protect their rights at the Yarmouth herring fair. Indeed, Murray assumed that this was the initial impetus for the ports to federate. Only later, in the thirteenth century, came the wine trade and freight to play a role in the economy of the Ports. Brooks, for his part, asserted that this wine trade was never very significant in the economic life of the Ports, and both claim that piracy was a significant source of wealth for the Portsmen.⁴² However, to my knowledge, no collective study of the economy of the Cinque Ports has been conducted, and in abundant sources documenting the activities of the Portsmen, they often seem to have been on their way to, for instance, Gascony to buy and freight wine when they conducted piracy (or were accused of it). Indeed, one of the best indications that Murray

³⁹ Crouch, David, *The Birth of Nobility* (Harlow, 2005), pp. 241 and 247.

⁴⁰ Murray, *Constitutional History*, pp. 20–21 and 30–31.

⁴¹ Dressler, *Of Armour*, p. 45.

⁴² Murray, *Constitutional History*, pp. 11, 17–18, 26–28, Brooks, “Cinque Ports,” pp. 175 and 185.

and Brooks have underestimated the importance of the wine trade for the Ports is the petition of defence over Norman piracy issued by the Cinque Ports in 1293 (see chapter 4). In this document, the Portsmen explained how they had defeated a large Norman fleet off Brittany, but they claimed that they had acted in self-defence and that the Normans had harassed them for years when they went to Gascony to pick up wine.

Concerning the military service provided by the Ports for the king, it has usually been assumed that the ships supplied to the Crown by the Cinque Ports were the backbone of England's naval forces in the High Middle Ages. However, Rodger has convincingly argued that the ships of the Cinque Ports were not the most important part of the naval forces which the English kings could muster.⁴³ This raises the question of why the Ports were granted such extensive privileges. According to Rodger, this had nothing to do with the number of ships provided. Instead, it rested on a number of practical circumstances. First of all, through their extensive piracies the Portsmen were experts in predatory actions at sea. Thus, they provided valuable service as naval experts and advisors to the kings in maritime matters.⁴⁴ Furthermore, the geostrategic location of the Ports on the English coast closest to the Continent meant that the Ports were vitally important for the security of the realm, since they could effectively control the Narrow Seas. Furthermore, the Ports were the first line of defence in case of an invasion of England, and without reliable control over the Ports the enemy could land unhindered and commence devastating attacks on the English countryside. Thus, it was of vital importance to stay on good terms with the Ports, since their benevolence to the king could obstruct an invasion. The Portsmen knew this, and in large part it accounts for their unruly and self-serving actions at sea.⁴⁵

As has been implied by the historians' writing on the Cinque Ports, piracy was an activity that they were continually engaged in, no doubt because of the relative judicial immunities conferred by the Court of Shepway. Indeed, according to Murray, the privileges conferred on the Portsmen were in part founded on their fierce reputation as pirates, which incidentally worked to the benefit of the English kings by discouraging naval operations against the island.⁴⁶ Nevertheless, while there seems

⁴³ Rodger, "Naval Service," p. 636.

⁴⁴ Rodger, "Naval Service," pp. 644 and 646.

⁴⁵ Rodger, "Naval Service," pp. 648–651, Rodger, *Safeguard*, pp. 124–126, Brooks, "Cinque Ports," p. 174.

⁴⁶ Murray, *Constitutional History*, pp. 31–33.

little doubt that the Portsmen were prone to piracy, we have to remain somewhat prudent as to the representativity of the sources documenting suits over piracy committed by the Portsmen. Sylvester has argued that a likely reason for the dominance of the Portsmen's piracies in the pre-1348 sources is exactly the confederate status. This facilitated the victims in reprisals or suits of law against the Portsmen for the recovery of their ships and goods. Indeed, the victims would have a higher chance of success in the recovery of their goods if they impleaded the Ports collectively.⁴⁷ Sylvester notes, however, that there was a marked difference between the piracies of the Ports and those of other maritime communities. The difference was the willingness of the Portsmen to act cooperatively, not just for individual goals but also to advance the interests of confederate members as well as the confederacy as a whole. Indeed, he writes that the Portsmen's duplicitous behaviour and often tumultuous relationship with the Crown is the best evidence of "port town residents who put self-interest before patriotism and the concerns of their own community ahead of those of the king".⁴⁸ The best researched and most notorious instance of the Portsmen's collective piracies against a common foe is their maritime war with the mariners of Great Yarmouth. The peak of this conflict took place in 1297. Edward I had commissioned ships of the kingdom to sail his army to Flanders to confront the French. However, once the army had disembarked, the mariners of the Cinque Ports and those of Great Yarmouth manned the ships and engaged in a presumably pre-arranged naval battle. Out of the 273 ships used for the transport of the army, seventy-three came from the Cinque Ports and fifty-nine from Great Yarmouth. Thus, the battle must have been rather big. Later royal inquisitions estimated that at least 165 men were killed, seventeen ships were burned and another twelve was looted. The total damages exceeded £5,000.⁴⁹ According to Sylvester, the "incidents that set off the violence were but the pretext for the deep-seated communal hatred rooted in economic competition".⁵⁰

This conflict with Great Yarmouth had been going on for a long while by the time the two sides clashed off the coast of Flanders. It seems as if the conflict began with the Portsmen's rights at the Yarmouth fair at the

⁴⁷ Sylvester, "Communal piracy," pp. 166–167.

⁴⁸ Sylvester, "Communal piracy," pp. 168–169.

⁴⁹ Prestwich, *Edward I*, p. 392.

⁵⁰ Sylvester, "Communal piracy," p. 172.

beginning of the thirteenth century.⁵¹ Throughout the first part of the thirteenth century, they continually clashed, although never on the scale of what happened later in the century. During the Montfortian revolt, Great Yarmouth sided with Henry III against the Ports and the rebels. Edward I, on the one hand, gave privileges to the Ports, but on the other hand, he increasingly supported Great Yarmouth against them. In the 1280s, conflict between the Ports and Yarmouth grew, but the maritime war with the Norman mariners and the Gascon War put off the differences for a time. However, by 1296 conflict was about to erupt again, as Yarmouth mariners complained over being attacked by pirates from the Cinque Ports. This was in all likelihood the reason for the naval battle in 1297. After this battle, despite royal prohibitions, the maritime war continued.⁵² A serious impediment to the settlement of these conflicts was the Portsmen's privilege of only being able to be judged at Shepway, a place where it was unlikely that the Yarmouthmen would obtain justice. Thus, a settlement was not reached until 1305. The settlement included a confirmation of the Portsmen's rights at the fair and a general pardon for all trespasses, injuries and damages prior to 3 March 1305. The most important point was, however, that the right to trial at Shepway presumably no longer extended to Portsmen charged with accusations of piracy.⁵³

While the maritime war between the Cinque Ports and Great Yarmouth has been the primary focus in the studies of the Ports martial history, it should be noted that they were continually at odds with other maritime communities like the Bayonnais, the Flemings, the French, the mariners of the West Country and the Castilians.

NORMANDY

In the thirteenth and fourteenth centuries, Normandy was a wealthy and prosperous province directly under the French kings' authority. It was, however, characterised by an administrative system, a customary law and a number of privileges created by the Norman dukes and later the kings of England. In 1204, when Philippe Auguste conquered the province, he swore to respect the privileges granted to the Normans by the dukes of Normandy. While alterations and to a certain extent a deterioration

⁵¹ Brooks, "Cinque Ports' Feud," p. 30.

⁵² Brooks, "Cinque Ports' Feud," pp. 36–43 and 45–48.

⁵³ Brooks, "Cinque Ports' Feud," pp. 33 and 49–50, *CPR 1301–1307*, p. 329.

of these privileges occurred during the thirteenth century, as a whole the French kings respected the Norman institutions and privileges, and the Normans reciprocated by staunch loyalty to the French Crown. An example of the French kings' leniency with the Normans can be seen, for instance, in Philippe Auguste's pardon of Norman pirates after the French conquest, even though these had fought the French.⁵⁴

The royal administration of Normandy was handled not by one central seneschal in Rouen, but rather a number of smaller bailiwicks throughout the province which made it easier for the Capetians to control the province. After 1220, Normandy was administratively divided into the bailiwicks of Rouen, Caen, Cotentin, Caux, Gisors, and Verneuil (which was abolished in 1302). The bailiffs had vicomtes under them, and these in turn were served by sergeants.

The Normans, however, maintained their own supreme court, the *Échiquier*, to administer the customary law and privileges of the province. Nevertheless, this court was presided over by the Capetian kings' trusted men, and the bailiffs were to answer to the *Échiquier*. For the most part, the *Échiquier* obeyed orders from the *Parlement de Paris*, and in essence it had the role of a jury which could conduct inquiries, but which usually could not pass judgement.⁵⁵

However, the exigencies of Philippe le Bel and his sons' continual wars with Flanders and the consequent demands for military forces, as well as extra taxes and devaluations of the coinage in the first decades of the fourteenth century, brought changes to the power structure in Normandy (as well as in the rest of northern France). In 1315, Louis X agreed to the demands of Norman insurgents and granted them the *Charte aux Normands*, which limited royal rights to military service, its continual usurpation of jurisdiction in Normandy and the fiscal exigencies of the Crown in the province. One of the most important gains for the Normans seems to have been the reaffirmation of the status of the *Échiquier*, which henceforth was recognised as Normandy's Supreme Court, thereby barring the option of appeal to the *Parlement de Paris*, which had been the norm.⁵⁶

⁵⁴ Russon, *Côtes*, p. 23.

⁵⁵ Neveux, François, *La Normandie royale* (Rennes, 2005), pp. 71–73 and 83–88.

⁵⁶ Jouet, Roger, ... *et la Normandie devint française* (Paris, 1983), pp. 118–119. However, Poirey argues that these claims were primarily judicial, not fiscal. Poirey, Sophie, "La Charte aux Normands, instrument d'une constatation juridique," in C. Bougy and S. Poirey, eds, *Images de contestation du pouvoir dans le monde normand Xe–XVIII^e siècle* (Caen, 2007), p. 95.

The Normans also supplied a rather large military force, both terrestrial and naval, to the Capetians, in addition to taxes. This naval service is the primary concern of this book. Between 1284 and 1293, Philippe le Bel constructed the *Clos des Galées* in Rouen to supply the Crown with its own galleys for operations in the Channel and in the Atlantic. The *Clos des Galées* was more of a shipyard and an administrative centre than an actual naval base (though in 1315 and 1316 fleets were assembled in Rouen and Dieppe), and while the intentions of Philippe le Bel were to build a royal fleet under the Crown, in effect it never seems that the French kings were able to build a substantial fleet of their own, not least because of the huge expenses that not only the construction but also the maintenance of a fleet entailed. In 1295, the Norman ports alone furnished approximately 150 ships, galleys and *galiots* of their own, thus making up more than half of the French fleet, which according to the accounts of Gyrart le Barillier was fifty-seven galleys and *galiots* and 223 ships.⁵⁷ This is both an indicator of the large number of ships available to the Normans and their naval importance to the kings of France.

Rouen was the nexus of the province. Politically and commercially, Normandy was completely dominated by Rouen, with its massive population and position on the Seine. Rouen boasted roughly 30,000–40,000 inhabitants, and via the Seine it had contact with Paris, with its population of 80,000–120,000 inhabitants. The Seine area was thus a rich trade nexus, and was visited by numerous merchant ships every year. While the Normans after the French conquest seem to have oriented themselves increasingly towards terrestrial affairs, the Norman coast and ports remained vibrant, animated by fishing, maritime traffic and trade. The Seine estuary especially was a dynamic area, and several small and large towns clustered around it and profited from trade.⁵⁸

This network of towns was dominated by the two biggest, Rouen and Caen, which had as their satellites Harfleur and Dieppe, which belonged to the archbishop of Rouen, and smaller towns like Cherbourg, Barfleur,

⁵⁷ *Documents relatifs au Clos des Galées de Rouen*, ed. Anne Chazelas, 2 vols (Paris, 1977–78), I, 27 and 36, Jal, *Archéologie navale*, II, 301–19. Royal shipyards in Rouen may have an older origin, however. At least in the last years of the 1190s, Richard I seems to have built galleys in Rouen. Gillingham, John, “Richard I, galley-warfare and Portsmouth: The beginnings of a royal navy,” in M. Prestwich, R. Frame, and R. Britnell, eds, *Thirteenth Century England VI* (Woodbridge, 1997), pp. 7–8.

⁵⁸ Russon, *Côtes*, pp. 15–16.

Port-en-Bessin, Touques, Fécamp, Saint-Valéry-en-Caux and Le Tréport.⁵⁹ Rouennais maritime commerce was based on three axes; namely England, north-eastern Flanders and the Parisian hinterland,⁶⁰ but Rouennais trade also reached Iberia and the French Atlantic sea-board trading in salt, wheat and wine from Ile-de-France, Burgundy and Languedoc.⁶¹ Politically, Rouen increasingly became the centre of Normandy. From 1268, the seat of the *Échiquier* alternated between Rouen and Caen (population 10,000), but from 1296 Rouen became the sole seat for this court.⁶²

Rouen was most probably run by the richest merchants in the *Ghilda mercatorum* of the town. During the thirteenth century, the number of these oligarchic families diminished continually, while corruption and nepotism grew. Thus, in 1292 the Rouennais rioted against the oligarchy.⁶³ The riots were put down by the royal government, and some of the privileges of the towns were temporarily suspended, but not until 1315–20 was a more durable solution provided to what increasingly seemed like a corrupt and abusive town government. Thus in 1321, Rouen obtained a new town constitution. The governance of the town still rested with the mayor assisted by thirty-six elected pairs, but serving three-year terms instead of for life, as previously. Furthermore, the municipality was put under the surveillance of twelve *prud'hommes*. The mayor lost control over urban finances, which were to be managed henceforth by two pairs and two *prud'hommes*. This new constitution permitted the mid-level bourgeoisie to participate in the municipal government.⁶⁴ Thus, in contrast with Bayonne, Rouen experienced a weakening of the mayoral powers.

I will now consider the Norman ports manifestly involved in piracy and maritime wars. Here, Rouen is curiously absent in the sources on piracy. Rather, the piratical ports were those located on the coastline from the Cotentin peninsula (including Saint-Malo, even though this was not a Norman port per se) to Picardy, although there seems to have been a concentration around the Seine estuary where Harfleur, Leure (today more or less

⁵⁹ Neveux, François, "La constitution d'un réseau urbain en Normandie," in P. Bouet, and F. Neveux, eds, *Les villes normandes au Moyen Âge* (Caen, 2006), p. 59.

⁶⁰ Sadourny, A. "Les grandes familles rouennaises au XIII^e siècle et leur rôle dans la cite," in P. Bouet and F. Neveux, eds, *Les villes normandes au Moyen Âge* (Caen, 2006), p. 271.

⁶¹ Hérubel, M.A., *Le port de Honfleur* (Paris, 1926), p. 18.

⁶² Neveux, "Réseau urbain," pp. 56–57.

⁶³ Mollat, Michel, ed., *Histoire de Rouen* (Toulouse, 1979), pp. 94–95, Sadourny, "Grandes familles," pp. 276–277.

⁶⁴ Neveux, *La Normandie royale*, p. 467.

Le Havre), Honfleur and Chef de Caux⁶⁵ were located. In contrast with Bayonne and the Cinque Ports, it is difficult to ascertain exactly what kept the Norman ports acting in unison. One explanation may be that they were associated in general, as through the specific laws that had governed the Duchy of Normandy. Nevertheless, it may also simply be an informal coinciding of interests at sea that kept them united in the face of, for instance, the Cinque Ports and Bayonne, and bolstered by their naval services to the kings of France. Likewise, it seems at times as if Picard and Artesian ports like Calais united with the Normans against the Anglo-Gascon mariners.⁶⁶

In a peace treaty between Bayonne and the Normans from 1282, the Norman ports mentioned specifically were Dieppe, Fécamp, Étretat, Chef de Caux, Leure, Harfleur, Touques, Ouistreham (the port of Caen), Caen (proper), Barfleur, Cherbourg and Régneville, although apparently more ports than just these were implicated in the maritime war.⁶⁷ In a Norman raid against the English and Bayonnais up the Charente River, it was stated that at least some of the pirates came from Barfleur and perhaps also Leure.⁶⁸ While no official leadership of these mariners is apparent, the town leaders must have known about the actions of the mariners—both to defend against accusations and to agree to peace treaties. The organisation of these ports is unknown. We do not have any documents stating any sort of a confederation like the Cinque Ports. If anything, it seems as if the “ringleaders” were probably Dieppe and Harfleur, but Fécamp, Le Tréport and Honfleur may also have played prominent roles.⁶⁹ Compared with Bayonne, there is a considerable drought in sources concerning the organisation of the ports of Normandy. Thus, we have no information about their merchants’, fishermen’s and mariners’ guilds, even though in all likelihood these ports also had maritime organisations for the freighting of goods, especially from the Ile-de-France and Burgundy, which travelled from Paris by the Seine River to Rouen and from there to be freighted by the mariners, particularly of the Seine estuary. One association is known, however, from the eleventh and twelfth centuries, namely the *Societas whalmanorum*, which had stations in

⁶⁵ Today Sainte-Adresse near Le Havre. Bois, Guy, *Crisis of Feudalism* (Cambridge, 1984), p. 317.

⁶⁶ See, for instance, the Normans’ and the Calaisiens’ attack on Dover. Langtoft, p. 225.

⁶⁷ TNA C 47/29/2/40.

⁶⁸ TNA C 47/31/5/1.

⁶⁹ Neveux, *La Normandie royale*, p. 480.

Le Tréport, Quillebeuf, Conteville, Dives and Port-en-Bessin.⁷⁰ It is unknown if these had any hand in piracy, but it seems as if Norman mariners and fishermen in general were involved in the piracies and maritime wars. In addition, the Norman coastline was ideal for piracy, as traders from the Bay of Biscay would often follow the Norman coast en route to Flanders.

In the following I will briefly examine three of these “pirate” ports, namely Harfleur, Dieppe and Regnéville.

Harfleur and Dieppe (and St. Malo) were the primary ports for pirates to dispose of their booty, and in the thirteenth and the beginning of the fourteenth century Harfleur seems to have been the primary pirate and privateer port.⁷¹ From the fourteenth century, Harfleur disposed of a fortified annex to the *Clos des Galées* for construction and repair of ships, and it served as a centre for Admiralty command and the assembly and departure of fleets from the Seine area. In 1295, Harfleur was the single largest contributor of ships for the royal fleet, fifty-one ships, compared to the forty-four supplied by Dieppe and the five ships and thirty-three galleys of Honfleur (however, these galleys most probably were not from Honfleur alone, but rather included a contingent of enlisted foreign galleys and possibly also some royal ones).⁷² The Harfleurais mariners were primarily mariners engaged in trade and freighting, whereas the Dieppoises were primarily fishermen.⁷³ Harfleur and Honfleur served as transit ports for Rouen and Harfleur, which trafficked in salt, wine transit, and coastal trade.⁷⁴

Like Harfleur, Dieppe (a town of perhaps 7,000 inhabitants) was directly under the archbishops of Rouen, who had important interests in the maritime commerce of the town. The town grew rapidly in the twelfth century, and under Archbishop Eudes Rigaud (from 1247) the commercial and maritime power of Dieppe was allowed to expand. However, the port was primarily engaged in herring fishing and transport to and from England, and Dieppe seems to have been almost exclusively a port for *transbordement* of merchandise, that is, a safe haven and a place for reloading, provisioning and going to the big trade emporia like Bruges or London. One of the reasons for this was that the harbour was quite inaccessible and was characterised by a

⁷⁰ Hérubel, *Honfleur*, p. 21. See also Musset, Lucien, “Quelques notes sur les baleiniers normands du X^e au XIII^e siècle,” in L. Musset, *Nordica et Normannica* (Paris, 1997), pp. 307–321.

⁷¹ Russon, *Côtes*, pp. 79 and 487.

⁷² Hérubel, *Honfleur*, p. 22.

⁷³ Russon, *Côtes*, p. 485.

⁷⁴ Hérubel, *Honfleur*, pp. 19–20.

treacherous current.⁷⁵ Since at least the start of the thirteenth century, the Dieppois also supplemented their income by piracy.⁷⁶

Regnéville, guarded by a castle, was somewhat smaller than Harfleur and Dieppe, and like Dieppe, the port was difficult to access. The water level was low, and big ships never went directly to the port but laid anchored a few miles out in the sea by the Îles Chausey. From here goods were transported in smaller boats to Regnéville with the rising tide. Nonetheless, Regnéville constituted a safe port in Basse-Normandie for mariners from the west.⁷⁷ The somewhat poor port of Regnéville was not the reason for this maritime activity. Rather, it was the proximity half a mile south of the town of Montmartin-sur-Mer, which hosted the biggest fair in Basse-Normandie, and which lay on the road to the biggest Norman towns and Paris. Together, these two towns made this part of the Cotentin peninsula a commercial centre with a permanent community of Gascon wine merchants.⁷⁸ Regnéville exported primarily wheat from the Breton and Caen plain and imported Spanish iron, English lead, tin and wool, and especially Gascon wine. The resident Gascons sold some wine locally or blended the wine there before sending it off to other markets. The wine customs were handled by two local citizens of Coutances, and seemingly a lot of fraud was involved in the handling of these and their fraudulent confiscations of wine to be sold off at their own profit. Thus, it seems as if wine import was quite important for the local economy, even though the Gascons presumably also came to Regnéville to buy fish.⁷⁹

In contrast with Bayonne, as part of the inherently bellicose Gascony where nobles and towns enjoyed ancient rights to wage private war, since the twelfth century Normandy had been a duchy where feuds and private wars between nobles were outlawed. On the whole, this was obeyed by the Norman magnates and towns.⁸⁰ Nevertheless, the hostile climate of the sea lanes makes it clear that the Norman mariners in no way held back in comparison with their Bayonnais and English colleagues when

⁷⁵ Lardin, Philippe, "L'activité du port de Dieppe à travers la comptabilité de l'archevêque de Rouen," in *Ports maritimes et ports fluviaux au Moyen Âge* (Paris, 2005), p. 171, Lardin, Philippe, "Les transformations de la ville de Dieppe pendant la Guerre de Cent Ans," in P. Bouet and F. Neveux, eds, *Les villes normandes au Moyen Âge* (Caen, 2006), pp. 75 and 87–91.

⁷⁶ Russon, *Côtes*, p. 486.

⁷⁷ Le Pesant, M., "Le commerce maritime de Regnéville au Moyen Âge," in *Annales de Normandie*, 8^{me} année (1958), pp. 323–324, Russon, *Côtes*, p. 180.

⁷⁸ Le Pesant, "Commerce maritime," pp. 330–331.

⁷⁹ Le Pesant, "Commerce maritime," pp. 325–329.

⁸⁰ Cazelles, "Réglementation royale," pp. 542–543, see also Yver, Jean, *L'interdiction de la guerre privée dans le très ancien Droit Normand* (Caen, 1928).

it came to violently defending and expanding their trade at sea. On the uncontrolled sea lanes, the Normans were probably just as quick as their English colleagues to resort to violence and lucrative plunder by piracy.⁸¹ Russon remarks that some ports like Saint-Malo, Harfleur and Dieppe, with a strong tradition for autonomy and a significant maritime engagement, preferred to settle their scores with rivals by violence rather than by appealing to the somewhat inefficient judicial authorities.⁸² However, unlike the Bayonnais or the Portsmen, the Norman mariners were not continually engaged in conflicts with other maritime communities. Indeed, the struggles seem to be confined to wars with the Bayonnais and the Portsmen, and in one instance against the Flemings in the 1310s.

The lack of any clear organisation and definitive leaders of the Norman maritime wars leads one to speculate if the powerful Rouennais merchant families or the archbishop had a hand in these activities, or possibly even backed them up. While the English merchants of Barton's complaint from 1327 of the attack by the Abbot of Fécamp's men on their ship in Fécamp and their plunder of the ship and the killing of the brother of one of the merchants seems to indicate an involvement by authorities like that of the abbot, it is difficult to determine whether this was an attack of opportunity, or rather an operation of arrest of goods in reprisal for damages suffered by Fécampoise mariners, which is the claim on the *dorse* of the document.⁸³ Thus, we cannot exclude an involvement in the piracies by authorities like the Rouen merchants, the higher clergy or indeed the French kings, but not much evidence suggests that operations like maritime wars were directed from the top of French society.

Indeed, what unites Bayonne, the Cinque Ports and Normandy in relation to piracy was that they were directly under the king's authority, which could support the notion that they were carrying out the secret orders of the kings. However, the sources suggest that they were in fact more than capable of pursuing private goals and wars themselves without any help or incitement from the kings. Indeed, most of the time, the wars and piracies were more of an embarrassment and a problem, especially for the English, than the front line of clandestine royal ambitions. Evidence of this is that the maritime war between Bayonne and Normandy in

⁸¹ Russon, *Côtes*, p. 472 "la vengeance est souvent à l'origine de ces engagements semi-privés dans la guerre sur mer. [...] la mer offre un terrain privilégié à la prolongation de la vieille tradition nobiliaire de la guerre privée, avec son lot de violences et de pillages lucratifs."

⁸² Russon, *Côtes*, p. 296.

⁸³ TNA SC 8/258/12890A1327.

1316–18 came at a time when neither the French nor the English king had any interest whatsoever in such a conflict, because their resources were tied up in wars with Flanders and Scotland. Thus, the Normans, like their Anglo-Gascon colleagues, seem to have disposed of a will of their own to pursue personal as well as collective goals and grievances, whether their royal overlords approved of them or not.⁸⁴

WINE TRADE

A significant stimulant and incitement to the use of piracy in the years 1280–1330 was the boom in the wine export from Bordeaux to northern Europe. It seems as if at least the maritime wars between Bayonne and the Normans (but indeed also between many other maritime communities) were founded on the quarrels between the mariners and merchants when they met in the ports and on the profit to be made by preying on the valuable wine cargoes, both locally when these ships passed on the coast and on long-distance trading voyages.

The wine export from Bordeaux seems to have increased steadily in the thirteenth century. Thus, in 1227, Bordeaux wine was exported to Harfleur, in 1243 to Brittany and in the years 1250–75 it gained ground in Ile-de-France.⁸⁵ However, not until the last quarter of the thirteenth century and the beginning of the fourteenth century did the wine export from Bordeaux really expand (see figure). For instance, in 1308–9, approximately 850,000 hectolitres of wine were exported from Bordeaux, equivalent to the export volume of wine out of Bordeaux in 1938.⁸⁶ It is important to stress, though, that we do not possess data documenting the exact volume of this export until 1303. It is possible that growth in the export was not exponential, but instead was sudden due to other circumstances, amongst them a desire on the part of Edward I to invigorate trade after the Gascon War. However, as will be apparent in the following chapters, even before 1303 many mariners from northern France and England went to Bordeaux each year to freight wine north to England, Flanders and France. Thus, while we do not know the exact volume of the export for the thirteenth century, the activities of the mariners suggest that it was already in rapid expansion by that point.

⁸⁴ Russon, *Côtes*, p. 439.

⁸⁵ Renouard, Yves (Bernard, Jean ed.), *Histoire de Bordeaux*, (Bordeaux, 1965), vol. 2, 247. See also Renouard, Yves, "Le grand commerce des vins de Gascogne au Moyen Âge," *Revue historique*, 221 (1959), 261–304.

⁸⁶ Cassard, Jean-Christophe, "Les marins bretons à Bordeaux au début du XIV^e siècle," *Annales de Bretagne et des Pays de l'Ouest*, 86 (1979), 380.

Year	Tuns of wine	Year	Tuns of wine
1305–06	97,848	1350–51	—
1306–07	93,452	1352–53	19,629
1308–09	102,724	1353–54	16,328
1310–11	51,531	1355–56	14,411
1323–24	—	1356–57	20,200
1328–29	69,175	1357–58	27,838
1329–30	93,556	1363–64	18,280
1335–36	74,053	1364–65	43,869
1336–37	16,577	1365–66	36,207
1348–49	5,923	1366–67	37,103
1349–50	13,427		

Figure 3.1 Wine exports from Bordeaux, 1305–67, including wine from the Haut Pays.⁸⁷

In the first three decades of the fourteenth century, the trade in wine was almost the complete monopoly of the Gascon merchants, specifically those from the Bordeaux area, whose trade was furthermore protected by English royal privileges. The wine exported from Bordeaux was not just from that area, however. Over half of the wine came from the Haut Pays and from Languedoc. Ironically, the biggest wine exporter in Bordeaux in 1303–4 was the French king, who since 1271 had direct control over Languedoc. However, the Bordelais merchants discriminated against these wines. Thus, there were two “winefleets” a year. The first was the autumn fleet freighting the autumn harvest with the young and most precious wine, which was almost exclusively Bordelais. This fleet departed from September to November. The second fleet left after 11 November and consisted mostly of Haut Pays wine. In theory, this second fleet could leave from November on, but most had to wait till Easter the following year or even until May or June before departing due to the sailing conditions. The voyage from Bordeaux to London presumably took about two months, even though it was possible to do it faster.⁸⁸ While this was the principle, James remarks that we should not understand this as only two departure times a year. Rather, in peace time, the trade was not overly organised, as several departures of singular or small groups seem to have been the norm

⁸⁷ James, *Wine Trade*, p. 32.

⁸⁸ Renouard, *Histoire*, pp. 247–256, James, *Wine Trade*, p. 123, Ward, *Medieval Shipmaster*, p. 232.

throughout the year. Not until 1336 did convoy sailing become obligatory and permanent because of Norman and Scottish piracies.⁸⁹

An indicator of the importance of the Bordeaux wine trade and its economic significance is that Bordeaux wine made up 31% of England's import and 25% of the Flemish import.⁹⁰ The Gascon and primarily Bordelais quasi-monopoly on the trade made them send commissioners to the English ports, especially London, but Sandwich and Winchelsea also had big settlements of Gascons who enjoyed the same privileges as the "barons" there, and Bordelais merchants had residences in Caen in Normandy.⁹¹ Thus, every year England was visited by several hundred Gascon merchants.⁹² At the beginning of the fourteenth century, only a few English merchants resided permanently in Gascony,⁹³ and while the wine trade was stable and prosperous in the first three decades of the fourteenth century (though marked by brief declines during the Anglo-French wars), the privileges and Gascon quasi-monopoly created resentment amongst the English merchants, and Gascons periodically suffered attacks in the English ports by envious locals. At one point, in 1315, the attacks became so severe that the Gascons threatened a total boycott of England. This resentment gradually led to more and more royal privileges for English wine merchants, and in 1327 London merchants brought into the country and sold as much Gascon wine in England as the Gascons themselves. In the 1330s, the English merchants increasingly went to Bordeaux themselves to buy and freight the wine, to the detriment of the Gascons. The result was that the Gascons gradually diverted their trade to the Continental market, primarily northern France and Flanders, and from 1330 a decline began in the wine export from Bordeaux from which it would never really recover in the Middle Ages.⁹⁴

In the first decade of the fourteenth century, the zenith of the Bordeaux wine export, several hundred ships visited Bordeaux each year. According

⁸⁹ James, *Wine Trade*, pp. 16, 124 and 133. However, during wars and truces, convoys were ordered, as in 1301, when the king ordered all English ports, but especially the Cinque Ports, that when they sailed to Gascony for wine and other merchandise, the ships should continually be kept in the form of a fleet and in such depth of water at sea or in the river that they could not be attacked, taken or arrested by enemies conducting surprise attacks. When the mariners were on land, they should be cautious and behave themselves, thus making sure that further travel would be untroubled. *CCR 1296–1302*, pp. 499–500.

⁹⁰ Renouard, *Histoire*, p. 257.

⁹¹ Dupont, Gustave, *Histoire du Cotentin et de ses îles* (Caen, 1873), p. 220.

⁹² James, *Wine Trade*, pp. 73–74.

⁹³ Renouard, *Histoire*, pp. 262–264.

⁹⁴ Renouard, *Histoire*, p. 264, James, *Wine Trade*, pp. 9–15, 70–76 and 81–83.

to Cassard, 982 ships in 1303–4, 610 in 1306–7, 552 in 1307–8 and 747 in 1308–9.⁹⁵ For 1303–4, Renouard has calculated the tonnage and origin of these ships. 81% of the ships had a carrying capacity of under 150 tons, 16% could carry between 150–200 tons and 3% could take more than 200 tons.⁹⁶ On the origin, he writes that only six of the 982 ships that left the Gironde charged with wine were from Bordeaux, that is, 0.50%. The others were English (40%), Basques (9%), Breton (22%), Oleronais (3%), Rochelais (0.5%), Norman (10%) or Cantabre (5%).⁹⁷ This calculation is, however, somewhat faulty. Cassard points out that the ships identified by Renouard as “oleronais” is based on Renouard’s reading of *de Loyre* as denoting Oléron. According to Cassard, this should rather be understood as the Pay Nantais, thus as the Loire estuary.⁹⁸ For my part, I have doubts as to both these interpretations as Loyre or Loyra sometimes figures in the sources as an alternative spelling of the Norman port, Leure.⁹⁹ Thus, the number of Norman ships might be slightly higher than assumed by Renouard and Cassard. Likewise, it is not clear what the term *basques* covers. Presumably, it refers to ships from ports like Bayonne, Fuenterrabía and San Sebastian, but Renouard gives no explanation, and we are left in the dark. In the same vein, it is also unclear what *cantabres* covers, and how he distinguishes between *basques* and *cantabres*. These uncertainties are not insignificant, as it makes it hard for us to assess the number of Bayonnais and Norman ships involved in the freighting of the wine. Due to the Gascon monopolies, most of these visiting ships were engaged primarily in freight of wine and not trade. This was in essence what the mariners of Bayonne, Normandy and the Cinque Ports had in common, namely that they were primarily freighters and only secondarily merchants.¹⁰⁰

The *voisinage* “system” protected the Bayonnais abroad and gave security not only to Bayonnais by birth, but also those associated with *voi-*

⁹⁵ Cassard, “Marins Bretons,” p. 381.

⁹⁶ Renouard, *Histoire*, p. 255.

⁹⁷ Renouard, *Histoire*, p. 242: “6 seulement des 982 bateaux qui sortent de la Gironde chargés de vins sont bordelais, soit 0,50%; les autres sont anglais (40%), basques (9%), bretons (22%), oleronais (3%), rochelais (0,5%), normands (10%) ou cantabres (5%).” Interestingly, this only amounts to 90% something which Renouard does not account for. This could be due to negligent notaries and general deterioration of the documents. Cassard writes on these numbers: “Le fonctionnaire ducal a omis de préciser certains noms; d’autres ont été effacés par l’humidité; certains enfin n’ont pas encore été déterminés avec précision: il s’agit surtout de ports anglais.” Cassard, “Marins Bretons,” p. 396, n. 12.

⁹⁸ Cassard, “Marins Bretons,” p. 381.

⁹⁹ *Saint-Sardos*, pp. 7–10, no. 9.

¹⁰⁰ Goyheneche, *Bayonne*, pp. 320–321.

sin status, making the Bayonnais maritime enterprises bigger than what a medium-size town in Gascony would suggest. For instance, in 1307, a Bayonnais decree established that if a foreigner committed a wrong against a *voisin* at sea, on the rivers or on the islands (probably the archipelago centred around Oléron), his goods would be confiscated, and if the *voisin* was wounded or if he killed a foreigner, the town would protect the *voisin* if he had acted within his rights.¹⁰¹ While it is difficult to prove from the treaties and the petitions who the *voisins* were, it remains clear that the Bayonnais were actually a rather big group in maritime matters. Consequently, the conflicts with other maritime communities could have geographically wide-ranging consequences.

The extensive, international trade conducted by the Bayonnais led to installations of Bayonnais merchants more or less permanently on the coasts from Spain to Flanders. The biggest of these installations were probably in London and Bruges, where at the end of the thirteenth century eighty Bayonnais merchants resided.¹⁰² The northern Spanish ports, Bordeaux, La Rochelle, the Breton ports, the Channel Islands, Sandwich, Winchelsea and some Norman ports as well had installations of merchants, which must have swollen in the summertime when Bayonnais and Gascon mariners and merchants went abroad to conduct trade. On the French coasts, the account of a Norman attack on a Bayonnais in La Rochelle in 1324 indicates that some Bayonnais at least were temporarily settled there.¹⁰³ The installations on the Channel Islands and Brittany seem to have been of vital importance to the Bayonnais, and they were central for their international northern trade, essentially constituting the “crank” between the Bayonne and the markets in Flanders and England. These areas were also important for the catching and drying of fish, especially conger eel and hake. The most important area was the drying areas in Brittany north of Saint-Mathieu, to which Bayonnais merchants acquired exclusive rights from the Duke of Brittany in 1279.¹⁰⁴ This should be seen in connection with certain drying areas on the Channel Islands given to the prominent Bayonnais, Amat de Saubaignac, in 1278 by Edward I. Despite the ferocious war between the Bayonnais and the Normans in the

¹⁰¹ Goyheneche, *Bayonne*, p. 329. The Ancient Customs of Bayonne from 1273(?) are printed in Balasque, *Etudes historiques*, II, 594–679.

¹⁰² Hourmat, *Histoire*, p. 78.

¹⁰³ Goyheneche, *Bayonne*, pp. 529–530.

¹⁰⁴ *Recueil d'actes inédits des ducs et princes de Bretagne (XI^e, XII^e, XIII^e siècles)*, ed. Arthur de la Borderie (Rennes, 1888), pp. 264–267.

1290s where the Normans apparently attacked the drying areas (according to Goyheneche), in 1296 several Bayonnais merchants were still living peacefully in the northern Breton ports and had no identifiable connection with the Bayonnais accused of piracy, as shown by the report made by the Vicomte d'Avranches for Philippe le Bel. In this report, the resident Bayonnais were acquitted of accusations of hostile activities.¹⁰⁵

We know less about the Norman installations on the trade routes, but they had a permanent presence in Bordeaux and presumably also in La Rochelle and Tonnay-Charente. Likewise, they also used the Channel Islands as an *entrepôt* to ship wine on to England.¹⁰⁶ It is, however, possible that they, like the Bretons, had fewer installations than the Bayonnais, for while the Bretons had a permanent "colony" in La Rochelle in the early part of the thirteenth century, they had no presence in Bordeaux apart from the freighting of wine in particular for foreign merchants.¹⁰⁷

The reason for the specific conflict with the Bayonnais may well be that the Normans, apart from a general interest in plunder, also wanted to hinder the Bayonnais in transporting wine to the continental markets, whereas the English mariners (though still rivals) predominantly went to England with their wine. However, even during times of hostility between the kingdoms and the maritime communities, individual merchants continued to trade in the enemies' ports, and the exact nature of the conflict lines are quite difficult to establish.¹⁰⁸

There are thus two caveats to the study of the maritime wars, namely that they were not between the ports as united political entities, but rather that it was a conflict between their maritime communities. Even then it was not a "total" war, since commerce still continued during the wars; apparently some mariners and merchants were able to remain neutral in the conflicts, as indicated by the report of the Vicomte d'Avranches.

¹⁰⁵ Goyheneche, *Bayonne*, pp. 373–377, Borderie, Arthur de la, "Nouveau recueil d'actes inédits des ducs de Bretagne et de leur gouvernement (XIII^e–XIV^e siècles)" *Bulletin et mémoires de la Société Archéologique du département d'Ille-et-Vilaine*, XXI (Rennes, 1892), 152–162.

¹⁰⁶ Dupont, *Histoire du Cotentin*, p. 220.

¹⁰⁷ Cassard, "Marins Bretons," pp. 379–380.

¹⁰⁸ Russon, *Côtes*, p. 439, *CPR 1292–1301*, p. 106.

CHAPTER FOUR

GUERRA MARITIMA

In 1292, a Norman and a Bayonnais mariner allegedly got into a quarrel over who was to draw water first from a freshwater source on the Island of Quéménès off the west coast of Brittany. One of the mariners was killed (most probably the Norman), and the Normans retaliated by attacking Anglo-Gascon shipping in the Atlantic and the English Channel. The quarrel thus developed into a maritime war characterised by rampant piracy, which in the end led to the Philippe le Bel's confiscation of the Duchy of Gascony and to the Gascon War (1294–97). Therefore, the maritime war between Anglo-Gascon and Norman mariners brought thirty-five years of peace between England and France to an end.

This quarrel was, however, neither the first nor the last time that the Norman and the Bayonnais mariners clashed. Indeed, in 1282 they had entered a peace treaty, and in 1316–18 and in 1323–25, they waged maritime war against each other. These conflicts will be dealt with in chapter 7. In this chapter I shall only deal with the 1292–93 war, since it represents a good case study of how maritime wars were primarily waged through piracy. The maritime war between the Anglo-Gascons and the Normans is especially well suited for this investigation, because of all the maritime wars in the period from 1280–1330, it contains the most detailed accounts of how and why these wars were waged. The purpose of the chapter is to examine how a maritime war started, what the martial practices of this kind of war were, and how contemporaries understood the conflict and its causes.

My approach to the study of maritime wars is inspired by Georges Duby's in his book on the Battle of Bouvines, 1214. Duby wrote:

I attempted a sort of ethnography of the military practice in the beginning of the thirteenth century. I approached the combatants of Bouvines like an exotic people, noting the strangeness and the singularity of their acts, of their cries, of their passions, and of the mirages that dazzled them. Similarly, to situate the battle in the context of the war, the truce, and the peace seemed to me a means of circumscribing more precisely the field which we call politics... Finally, I attempted to investigate how an event was made

and unmade since, in the end, it exists only because one speaks of it, since it is, strictly speaking, made by those who tell its story.¹

The murder of the mariner and the subsequent events leading up to the citation in autumn 1293 of Edward I at the *Parlement de Paris* to answer for the actions of his subjects, the French confiscation of the Duchy of Gascony and the outbreak of the Gascon War are described in several sources, legal and diplomatic records as well as chronicles. Even though we have to remain cautious as to the descriptions of the events, combined they give, at the very least, a plausible course of events.

I shall now present the course of the events as they appear in the English and French legal and diplomatic records. I will then follow up by presenting the views of the chronicles concerning what had happened. These are coloured by the patriotism of the writers, but they contain several important details about the agents involved, the practices in maritime conflict and the way in which the writers retrospectively understood the causes of the mariners' conflict and the Gascon War. Finally, I shall analyse three specific practices of maritime war, all related to the noble private war and private enforcement of justice.

THE CINQUE PORTS' ACCOUNT OF THE NORMAN PIRACIES

The Portsmen's account of the piracies and the damages done to the Anglo-Gascons by the Normans in 1292–93 is expressed in the Portsmen's petition of defence for their actions during the maritime war. This writ in the extant version furthermore includes a list of damages done exclusively to Bayonnais mariners and merchants. These accounts of the events can be found in three almost identical versions in the English National Archives, C 47/27/15/1, C 47/31/5/2 and C 47/31/6. The C 47/27/15/1 furthermore includes a report by the seneschal of Saintonge, Rostand de Soler, concerning a Norman raid up the Charente in 1293 (which I analyse in

¹ "je tentai une sorte d'ethnographie de la pratique militaire au début du XIII^e siècle: je m'approchai des combattants de Bouvines comme d'une peuplade exotique, notant l'étrangeté, la singularité de leurs gestes, de leurs cris, de leurs passions, des mirages qui les éblouissaient. Parallèlement, situer la bataille par rapport à la guerre, par rapport à la trêve, à la paix, me parut un moyen de circonscrire plus exactement le champ de ce que nous appelons le politique... Enfin, je tâchai de voir comment un événement se fait et se défait, puisque, en fin de compte, il n'existe que par ce qu'on en dit puisqu'il est à proprement parler fabriqué par ceux qui en répandent la renommée." Duby, Georges, *Le dimanche de Bouvines*, in G. Duby, *Feodalité* (Paris, 1996), pp. 830–831.

the third part of the chapter). This account of this Norman raid is also separately recorded in C 47/31/5/1. We are thus dealing with three distinct accounts of Norman maritime depredations against Anglo-Gascon mariners, but as C 47/27/15/1 demonstrates, these depredations were clearly interrelated and part of the same overall conflict between Norman and Anglo-Gascon mariners in 1292 and 1293.² It should be noted that these documents are not the originals issued by the Portsmen, the Bayonnais or Rostand de Soler. Rather, they seem to be later copies of the Portsmen's account, the list of damages and the seneschal's report, compiled together no doubt for use in negotiations with the French at the end of the Gascon War, or possibly even during the numerous Anglo-French negotiations during the first three decades of the fourteenth century. The dating of the documents has been subject to some confusion. Champollion-Figéac dated the Portsmen's petition and the list of damages done to the Bayonnais to c. 1292; Rodger and Rose, in *English Naval Documents 1204–1960*, date them to 1293; and Marsden dated them to 1299.³ Marsden's dating is untenable however, as the Portsmen's account at one point mentions that the damages were done in the twentieth and twenty-first years (of Edward I's reign), that is, 1292, but Champollion's transcription dates one of the Norman attacks in the Cinque Ports petition to 1298. This, however, rests on a false reading of the year by Champollion. In C 47/31/5/2, it says the *xxi* year of Edward's reign and not *xxvi* as Champollion assumed. Neither Champollion-Figéac nor Marsden seem to consider that we are in fact dealing with two accounts of separate origin. Based on the other sources available and especially the chronicles, it seems to me that the Portmen's account was, in all likelihood, written in or shortly after 1293.⁴ The Bayonnais account of losses suffered because of Norman piracies is undated, but presumably it hails from the same period. In any case, the extant documents in the National Archives suggest that the report by Rostand de Soler (which neither Champollion-Figéac nor Marsden seem to have considered), the Portsmen's account and the Bayonnais list of damages were initially three different documents, but that they were written together to be presented during the peace negotiations and discussions of restitution due to the different mariners—perhaps even as early as the

² I have provided transcriptions of these accounts in Appendices 3 and 4.

³ Champollion, I, 392–400, *British Naval Documents 1204–1960*, eds John B. Hattendorf, et al. (Aldershot, 1993), p. 20, Marsden, *Law and Custom*, p. 50.

⁴ This assumption is supported by *EMDP*, I, 395.

autumn of 1293—to be presented at the *Parlement de Paris* in connection with the citation of Edward I.

The Portsmen's account⁵ runs accordingly: During Lent of 1292 at the source of St. Kymenois, convincingly identified by the historian Hubert Michéa as the island of Quéménès off the west coast of Brittany (see below), some Norman and Bayonnais mariners got into an argument about who was to draw water first from the freshwater source on the island. The argument developed into a fight where a Bayonnais was killed (this contradicted both the internal logic of the course of events presented by the Portsmen and most other sources recounting the incident). This murder started a series of ferocious Norman attacks on Anglo-Gascon mariners. First, the Normans attacked a Bayonnais ship which was destroyed, plundered and the crew was killed. Then the Normans headed south for their initial destination, Bordeaux, to buy and freight wine, but on the way they attacked and sank four Bayonnais ships at Royan-sur-Gironde. These actions led to the assembly of the English, Irish, Bayonnais, Norman and Breton mariners in Bordeaux by the constable of that town, and he made them swear to refrain from further conflict. The English and the Bayonnais then left Bordeaux in groups of four to six ships, but they were soon pursued by eighty Norman ships not only laden with wine, but also fitted for war, with castles and hoist banners signalling hostile intent. On the way back to Normandy, the Normans attacked ships from Bayonne and Ireland. During the spring and summer of 1292, the Norman depredations continued as they attacked English, Bayonnais and Irish ships off the coast of Normandy and in Norman ports, with widespread plunder and killing as the consequence. For instance, the crew and pilgrims (in total forty persons) on board ships from Winchelsea and Hastings allegedly had their feet, hands and finally heads cut off in Dieppe.⁶ In the summer, Philippe le Bel sent a knight to Bordeaux to proclaim peace and punishment of life, limbs and all possession to anyone who harmed the English and the Irish. Indeed, both Philippe le Bel and Edward I issued several orders to

⁵ I have primarily used the original charter, (see Appendix 4), rather than Champollion's somewhat faulty transcription of the Portsmen's account. I will, however, give references to his edition for ease of reference for the reader.

⁶ This passage has not been transcribed by Champollion in full. In TNA document C 47/31/5 it says: "biens robberent a la vailance de v c livres les mariners couperent les piez e les poynz a prez pur meuz aseurer leur besognes(?) couperent les testes a la moun-taunce de xl homes qe mariners qe peleryns e les neefs enfundrerent en la mer." See Appendix 4.

their mariners to keep the peace.⁷ Nevertheless, the Norman piracies continued, and this led to a growing feeling of insecurity amongst the Anglo-Gascon mariners. They consequently carried only half the usual cargo in their ships so as to be able to better escape or fight off attackers.⁸ Thus, the result was human as well as economic loss for English subjects.

The following year, in 1293, the English sailed undisturbed to Bordeaux, but upon return, the Normans lay in wait off Brittany and attacked the English, plundered seventy ships and killed the crews and the merchants. Furthermore, in Saint-Malo, two Bayonnais ships were attacked by the Normans, and seventy mariners were either flayed or hanged in their skins with dogs.⁹

In response, the English mariners assembled a great fleet of merchant ships—for the protection that greater numbers confer—in Portsmouth and left on 24 April for Gascony to trade. However, due to contrary winds, they lay still for a long time off Saint-Mathieu. When the Norman wine fleet, armed for war, came sailing from the south, charged with only half a cargo to be able to better fight the English, a naval battle off Saint-Mathieu commenced. In this battle, the English were victorious, and the Normans suffered tremendous losses, allegedly 200 ships.¹⁰

It is important to note here that I find it hard to believe that the bellicose Portsmen only had peaceful intentions. I rather assume that this fleet was assembled for a well-planned ambush, and that it had vengeance as its objective, not trade. Whether the Norman fleet was indeed manned for war is not known, but they might very well have been, if nothing else then for self-defence. To this account by the Portsmen, the list of thirteen individual incidents of Bayonnais losses in valuables and lives due to Norman piracies is added, which elaborates on the already detailed account of losses in the Portsmen's petition of defence.

⁷ Edward I forbade on at least four different occasions his subjects from attacking the French at sea. *CPR 1292–1301*, pp. 16, 18, 29, 30 and 31. *CCR 1288–1296*, p. 284. On 29 May 1293, Edward wrote to the Cinque Ports, their warden, Great Yarmouth, the ports of Norfolk and Suffolk, Southampton, Dorset, Somerset, Devon and Cornwall. He prohibited them from causing damage to the French, but allowed them to continue peaceful trade, except for the Cinque Ports who had not obeyed the king's commands. Accordingly, the Portsmen were prohibited from going to France until a settlement had been reached. Likewise, Philippe le Bel prohibited his subjects from harming the English mariners. ANF J 631, no. 8, Champollion, I, 394. See also Powicke, F.M., *Thirteenth Century, 1216–1307*, 2nd edn (London, 1962), p. 645.

⁸ This was normal procedure in wartime. See James, *Wine Trade*, p. 17.

⁹ Champollion, I, 395.

¹⁰ TNA C 47/31/5/1, Champollion, I, 396.

The primary goal of the Cinque Ports' account was to show that the Normans started the war and that the Normans had acted against the French king's prohibitions of continuing the war. The Normans therefore had no right of vengeance or restitution. In contrast, the English were merely acting in self-defence. In addition, the Portsmen threatened Edward that if he agreed to extradite them to French courts of justice or if they felt that an English court would treat them unfairly (that is, declare them guilty), they would take their families, leave the kingdom and earn their livelihood at sea by indiscriminate piracy (as they had done in 1265–66).

This account is, however, a very one-sided presentation of the course of events. For instance, it omits the Bayonnais attack on La Rochelle following the naval battle off Saint-Mathieu in 1293, and the rather graphic and horrifying details of the Normans' ferocious treatment of English mariners makes the document circumstantial. While the Normans may or may not have committed these outrageous acts, the portrayal of it supported the English case of self-defence against the monstrosity of the Normans. Thus, it follows a model for vendetta narratives described by Trevor Dean, where what "we are left with is not an objective account of a crime, but a tale spun within the limits of contemporary credibility".¹¹ However, the French complaints and the chronicles do support the core of the Portsmen's account, and overall it gives a plausible image of the Normans' actions. Yet it remains inconceivable, to my mind at least, that the bellicose Cinque Ports would have tolerated Norman hostilities for so long without retaliating, but of course the Portsmen omitted this in their account.

PHILIPPE LE BEL'S CITATION OF EDWARD I TO APPEAR IN COURT IN 1293

Philippe le Bel's citation of Edward I to answer charges in the *Parlement de Paris* for his subjects' actions in the maritime war was not specifically oriented on the actions of Anglo-Gascon mariners against French mariners. Rather, the focus of the complaint was the Bayonnais' and the Gascons' acts of rebellion against the French Crown and the English king's failure—as the French king's vassal—to punish them. Thus, *en gros* the French complaints against the Anglo-Gascons tacitly confirm the course

¹¹ Dean, Trevor, "Italian medieval vendetta," in J.B. Netterstrøm and B. Poulsen, eds, *Feud in Medieval and Early Modern Europe* (Århus, 2007), p. 137.

of events as portrayed by the Cinque Ports and other English sources treated below.

In the autumn of 1293, Philippe le Bel thus complained of the Bayonnais' and other English subjects' crimes against the French. Generally, he claimed that the Bayonnais had demonstrated their disdain and their evil intentions by the plundering, the capturing and the killing of Normans and other French subjects, in contempt of the French king's prohibitions against further acts of violence. Since Edward had done nothing to stop their actions, nor had he given restitution to the victims, the blame accordingly fell on him.

The Bayonnais' attack on La Rochelle was particularly stressed, but neither the Normans' piracies nor the naval battle was explicitly referred to. The reason that the attack on La Rochelle was one of the main charges of the citation was that it constituted an attack on the French king's property and hence on the kingdom of France, since La Rochelle and Poitou had been royal territory since 1271. Thus, this attack transformed a war between regional maritime communities into an attack on the French king. For these actions, Philippe demanded that the Bayonnais and other criminals were delivered into French custody for imprisonment and trial in France. When the Bayonnais refused¹²—and since Edward seemingly did not want to carry out the French demands—Philippe saw no other alternative but to threaten to confiscate the Duchy of Gascony. Edward had failed in his feudal obligation to his liege lord for the Duchy, the king of France, by omitting to correct or answer for his subjects' crimes. However, this threat of confiscation and the initial actions of French royal officers in the Duchy led to a Gascon rebellion with maltreatment, beatings, hostage-taking or outright killing of the royal officers and other French subjects. For instance, it was claimed that Normans, who for ten years had lived peacefully in Bordeaux and Bourg, were killed for speaking French in public, and in Fronsac, French customs officers were decapitated. Philippe summarised the problem in the following manner: since Edward had done nothing to stop the Bayonnais' and the Anglo-Gascons' crimes, rebellion and killings of the French—especially the royal officers—Edward was indicted at the *Parlement de Paris* in January 1294.¹³

¹² The Bayonnais and Anglo-Gascons claimed that Philippe le Bel had never taken an active role in stopping or punishing the Normans, who, despite his prohibitions, had continued their piracies. ANF J 631, no. 8.

¹³ *Olim*, II, 3–8.

Thus, the French king was more preoccupied with the general crimes, the rebellion and the disdain for the royal officials than the preceding acts of war at sea. This preoccupation was something which the French kings increasingly took very seriously, as exemplified by the fate of the Gascon lord Jourdain de l'Isle Jourdain, who was executed in Paris in 1323 for the killing of royal officers.¹⁴

In response, Edward I sent his brother, Edmund of Lancaster, to France to negotiate, and the English accepted the surrender of Gascon hostages and a temporary French occupation of Gascony, presumably for forty days,¹⁵ agreed upon verbally and in secret. During the spring and summer of 1294, however, it became clear to Edward that Philippe had no intentions of giving up the occupation, as Philippe maintained the citation of Edward to appear in the *Parlement* in Paris. Since no safe-conduct was granted and no delay was allowed, Edward failed to show up in *Parlement* and was condemned as a defaulter on 19 May, and Gascony was declared confiscated. This prompted Edward to renounce his homage to the king of France on 24 June. England and France were now at war.¹⁶ The war was relatively short without any major battles or losses, and it ended in October 1297 with a truce so that the English could deal with a rebellion in Scotland and the French with a rebellion in Flanders. However, a formal peace treaty was not concluded until 1303. It ended with the restoration of Gascony to Edward.

THE CHRONICLERS' PORTRAYAL OF MARITIME WAR AND ITS CAUSES

Several English annals and chronicles described this maritime war and its causes. It is difficult to determine the level of interdependence of most of these accounts, or indeed even how much they relied upon the Portsmen's account (the chronicles seem ignorant of the individual Bayonnais losses and Rostand de Soler's report). However, even when interdependence is clear, the chroniclers often supply additional and original material to the accounts. Thus, while in many cases they seem to be based on rumours and hear-say, they provide details of events which are not completely unlikely to have happened, or which, at the very least, seemed credible

¹⁴ Vale, *Origins*, pp. 133–139, Kaeuper, *War*, p. 226.

¹⁵ Langtoft, p. 200.

¹⁶ Powicke, *Thirteenth Century*, pp. 646–648, Trabut-Cussac, J.P., *L'administration anglaise en Gascogne sous Henry III et Edouard I de 1254 à 1307* (Geneva, 1972), pp. 107–109.

to the authors and their audience. In the following, I have striven to use only chronicles written in the 1290s and the first decade of the fourteenth century. Thus, I have used only those accounts which are closest to the events.

The *Chronicle of Bury St. Edmunds*, which for this incident may well have been written not long after the maritime war,¹⁷ notes that in 1293, two naval battles took place where the English, the Irish and the Bayonnais defeated the Normans. Both occurred off Saint-Mathieu, the first on 15 May 1293, and the second on 26 May. In these, the Normans were allegedly aided by Germans, Flemings and Lombards but to no avail, and the Anglo-Gascons were victorious in both.¹⁸

Likewise, the *Flores Historiarum* wrote about the war in 1293 that a great discord had arisen between the English and the Normans. The Normans in their fury and folly had massacred several English mariners and hanged them from the yard-arm with dogs. Accordingly, the Portsmen mustered a fleet to avenge the injuries caused to the English. They defeated the Normans and plundered their ships, but Edward I refused to have any of the spoils, since he had not permitted this retaliation. This prompted the terrified French to appeal for help to Philippe le Bel, and the kings sent negotiators to make peace. This failed, however, because of the schemes of the French king's brother, Charles de Valois.¹⁹

The *Annales Londoniensis* wrote that the Portsmen set out to avenge themselves against the Normans, and in this account, the Normans had commenced their depredations at the instigations of Charles de Valois.²⁰ The *Annales Oseneia* noted that English were subject to attacks by the French because of the fury and insanity of the French. Consequently, the Irish, the men of Portsmouth and the Portsmen assembled a fleet in secret (since Edward had prohibited retaliation), and defeated and plundered the French at sea. This led Philippe le Bel to forbid trade with England.²¹ The *Annales Dunstaplia* supplies the interesting piece of information that the cause of the war was the Normans' killing of a Bayonnais nobleman. This started a series of reciprocal killings, burnings and plundering between the English and the French, with the Portsmen as

¹⁷ *Bury St. Edmunds*, p. xl.

¹⁸ *Bury St. Edmunds*, pp. 116–117.

¹⁹ *Flores*, III, 85–86.

²⁰ *Annales Londonienses*, p. 101. The Annals of Worcester has a similar account, though it omits the mentioning of Charles de Valois' role in the war. *Annales Wigornenses*, p. 512.

²¹ *Annales Oseneia*, pp. 335–336.

prominent participants. As in the *Annales Oseneia*, Charles de Valois played a leading role in fuelling French hostilities against the English.²²

The Augustinian canon Walter of Guisborough, who wrote his chronicle at the latest in 1305, though possibly before, provided a more detailed account of the war in 1293. He wrote that an Englishman and a Norman mariner met at a freshwater source in Normandy. They got into a fight over who was to draw water first, and the Norman was killed. The Englishman fled, but the Norman's comrades pursued him and his fellows. The Normans then sent messengers to the Cinque Ports to demand the surrender of the guilty party. The Normans asserted that failure to comply would result in acts of vindictive violence against Portsmen in general. Apparently nothing came of this, and the Normans took matters into their own hands. The Normans attacked six English ships at sea and captured two of them, and they hanged the English from the yard-arms with dogs and sailed around with them to show their contempt for the English. Thus, the Normans continued plundering and killing English mariners, for instance at the Zwin. The Portsmen swore vengeance and assembled a fleet, whereupon they commenced a war (*certamine*) with the Normans which culminated in a naval battle in the English Channel, where English, Irish and Dutch mariners defeated a fleet of Normans, French, Flemings and Genovese. Guisborough goes on to say that this battle was orchestrated by Charles de Valois, and that the Norman aggression should be understood as being backed by the French king. Nonetheless, the defeat resulted in Charles de Valois complaining to Edward I, and in demanding punishment of the English and restitution for the Normans for the damages perpetrated by the English.²³

The chronicler Peter Langtoft also described the conflict (at the latest in 1305). He relates that in 1293 there was a war between English and Normans at sea, but he does not mention any royal involvement on either side. Rather, he states that the Cinque Ports, Yarmouth, other English and Irish ports, and Bayonne scored a great naval victory against the Normans, but that Edward I only desired peace.²⁴ However, he continues by saying that since Philippe le Bel and Charles de Valois coveted Gascony, they summoned the Normans and the Picards and had them accuse Edward I of secretly ordering the attack on the Norman mariners. Furthermore, the Normans accused the English of having assembled a navy under the false

²² *Annales Dunstaplia*, pp. 374 and 384–385.

²³ Guisborough, pp. 240–241.

²⁴ Langtoft, p 196.

pretence of going on a crusade when the real purpose of the English fleet was to attack the Normans. Thus, Langtoft assumed French royal ill will towards and treachery (*fausine*) against the English.²⁵

The Dominican friar, Nicolas Trevet, also remarked on the maritime war. He wrote that after the English merchants suffered losses at sea, they appealed to Edward, who then sent Henry de Lacy to France to ask for restitution. However, while de Lacy waited for an answer, the Normans assembled a fleet of 200 ships or more to attack the Anglo-Gascons, but they were repulsed, defeated and plundered in Gascony. This led to French royal anger, and Philippe sent envoys to England to demand restitution for the Norman ships and goods if Edward wanted to keep Gascony. The non-compliance by of the French to submit to negotiations to settle the maritime war led to the Gascon War.²⁶

Trevet's account was probably the source of at least some of the information about the maritime war used by the Benedictine monk William Rishanger. Rishanger wrote that two mariners, an Englishman and a Norman, met in Gascony at a freshwater source where they both wanted to be first to draw water. This led to an argument and finally to a fight in which the Norman tried to stab the Englishman with his sword. The Englishman grabbed the Norman's hand that held the sword and, while trying to gain control, the Norman accidentally stabbed himself and died. When the Normans learned of the stabbing, they immediately attacked the English to avenge the death of their comrade, but the English resisted and escaped. The Normans then complained to Philippe le Bel, and to arouse his anger they said that a failure to punish the English would bring dishonour and shame on the king and on the French in general. Thus, the king ordered his mariners to avenge the murder wherever they met the English. Rishanger continues his account by giving an example of a Norman pirate attack. He tells how the Normans were lying in wait on the trading routes and soon observed an English ship, which they quickly intercepted. The Normans used hooks to pull in the English, and they commenced a naval battle in which some English mariners were taken captive and hanged from the highest mast of the Normans' ship. As a result, Rishanger writes that fear and hatred grew in the people of both kingdoms, and the soil was sown for the ensuing war.²⁷

²⁵ Langtoft, p. 200.

²⁶ Trevet, pp. 325–329.

²⁷ Rishanger, pp. 130–131.

Thus in general, the English chronicles supply details of the commencement of the war which in some instances seem credible, even though the location of the initial killing is confused. Furthermore, most of them stress that the war was masterminded at its inception—or soon afterwards—by Philippe le Bel and especially Charles de Valois.

Unsurprisingly, the French chroniclers did not share this view of events. In his chronicle dated to before 1300, Guillaume de Nangis, chronicler of the Abbey of Saint-Denis, indicated that the cause for the maritime war was Edward I's evil intentions. The treacherous English king had assembled a fleet, particularly from Bayonne, under the pretence of going on a crusade. In reality, however, he ordered the fleet to attack French ships and land, especially Normandy; the Anglo-Bayonnais mariners attacked, killed or took the French prisoners, and they plundered and destroyed the French ships. The English attack on La Rochelle and Edward's defiance of the Philippe le Bel's rightful summons for him to stand trial in Paris were particularly stressed, and the account justified the French confiscation of Gascony.²⁸ In c. 1306, the French sergeant and poet, Guillaume Guiart,²⁹ followed Guillaume de Nangis' account. He also mentioned Edward I's pretence of going on crusade in order to attack French shipping, but he added original material to Nangis' account by stating that Edward sent his fleet to Guernsey where it lay in wait and attacked the Normans as they returned from Gascony. The Normans were killed and their ships plundered, whereupon the Bayonnais proceeded to the Bay of Biscay and sacked La Rochelle.³⁰ Interestingly, the *Chronica Sancti Bertini* states that the war had its origin in the quarrel between two mariners near Saint-Mathieu, which led to bloody naval fights in which Spanish, Normans, English and Flemings participated. Thus, this chronicle does not suggest that the evil will of the kings was the cause of the war, but the mariners' quarrels. Moreover, it confirms the place of the killing to be in Brittany.³¹ A curious and interesting source in this regard is the *Chronographia Regum Francorum*,³² which has Flemings, not Normans, as the initial victims of

²⁸ Nangis, p. 574.

²⁹ Rose, *Naval Warfare*, p. 62. For Guiart's sources, see: Wailly, Natalis de, "Notice sur Guillaume Guiart," *Bibliothèque de l'École des Chartes*, 2nd series, III (1846), 1–17, and Paris, Paulin, "Guillaume Guiart," *Histoire littéraire de la France*, 31 (Paris, 1893), 104–134.

³⁰ Guiart, ll. 12730–12821, pp. 265–66.

³¹ *Iohannis Longi Chronica S. Bertini* in *Monumenta Germaniae Historiae*, SS 25, ed. Oswald Holder-Egger (Hannover, 1880), p. 864.

³² This part of the chronicle was probably written in the first decades of the fourteenth century. *Chronographia*, III, pp. v–vii.

English aggression. In 1290, some Flemish merchants were returning from Gascony to Sluis. In La Rochelle, they entered into a quarrel with Bayonnais merchants, and one of the Bayonnais was killed. The Flemings then sailed on, and in the port of Saint-Mathieu they met other Bayonnais and English merchants. Here, a battle commenced, and many were killed. In the battle, the Flemings were supported by Norman, French and Picard mariners, and together they defeated the Anglo-Bayonnais, of whom only few escaped back to England. The Cinque Ports complained of this to Edward I and asked for help, and he granted them the right to take revenge on the Flemings, the French, the Normans and the Picards. This action started a war at sea which greatly damaged the French. The summoning of Edward to Paris and the invasion of Gascony followed, but no connection between the maritime war and the Gascon War is made.³³ Nevertheless, here Edward was indirectly implicated in the English retaliations, but the incident and the story are different. We cannot entirely dismiss the account, and it is quite possible that there were several incidents involving French mariners against the English leading up to 1292 which might explain why the conflict escalated so quickly.

In these accounts of the events at sea which led to the Gascon War, it is interesting to note that many of the medieval chroniclers blamed Philippe le Bel, Charles de Valois or Edward I for masterminding the maritime war.³⁴ Few of them seem to accept the notion that the kings only became involved belatedly and were simply reacting to a war which had started between the mariners. They thus dismiss the possibility that the war had its origins in quarrels over maritime matters, rather than in the carrying out of secret royal plans.

Modern historians have traditionally analysed this maritime war in the context of the kings and their policies rather than from the perspective of the mariners. While all recognize that the maritime war was the precursor to the Gascon War, some have accepted the chroniclers' argument that Philippe le Bel and Charles de Valois incited the Normans' aggression.³⁵ Furthermore, Jean Favier gave some credence to Edward I's role in the

³³ *Chronographia*, I, 39–40.

³⁴ See Offenstadt, Nicolas, *Faire la paix au Moyen Âge* (Paris, 2007), pp. 135–145.

³⁵ Trabut-Cussac, *L'administration anglaise*, pp. 108–109. This view echoes of the one proposed by Langlois, Charles V., *Saint Louis, Philippe le Bel, les derniers Capétiens directs (1226–1328)* (Paris, 1978), pp. 304–305, Nicolas, Nicolas H., *A History of the Royal Navy* (London, 1847), pp. 267–270, Roncière, Charles de la, *Histoire de la marine française*, (Paris, 1899), I, 326–328. Russon speculates that Philippe might have orchestrated this war. Russon, *Côtes*, pp. 353 and 412.

escalation of the conflict,³⁶ but most historians are simply at a loss in explaining how—in their view—a relatively insignificant quarrel between mariners could develop into a full-scale war between the kingdoms.³⁷ Only Frederick M. Powicke seems to have taken the mariners' personal conflicts seriously, but even he refrained from a more detailed analysis of the causes of the maritime war.³⁸ These historians' portrayals are important because they demonstrate what has been considered essential in the research on medieval piracy and maritime wars, namely that it was an extension of royal policy with little importance in and of itself apart from the influence of the general relations of the kingdoms.³⁹ However, none of the historians doubt that the final reason for the escalation of the killing of a mariner into a full-scale war lay with Philippe le Bel alone, as he was ultimately the only one of the actors in this drama who had the power to stop the escalation of events. However, while there seems little doubt that the final decision for war was Philippe's, we cannot simply assume that this was completely based on secret and long-harboured plans for the conquest of Gascony, nor on erratic behaviour by Philippe le Bel as assumed by Strayer.⁴⁰ The attacks on La Rochelle and on the royal officers seem to have been the crucial moments in the escalation of events. It forced Philippe to take an aggressive stance, since failure to address and punish these attacks by the subjects of a powerful vassal would have signalled royal weakness to the magnates of France in general. In any case, from a juridical point of view, Philippe was justified in his actions against Edward, not only for the attack on La Rochelle, but also for the attacks on French officers and Gascon appellants at the *Parlement de Paris*.⁴¹ So, it

³⁶ Favier, Jean, *Philippe le Bel* (Paris, 1978), p. 210.

³⁷ Déprez, Eugène, *Les préliminaires de la Guerre de Cent Ans* (Paris, 1902), p. 11, Favier, *Philippe le Bel*, p. 209, Strayer, *Reign*, p. 317, Prestwich, *Edward I*, p. 377, Vale, *Origins*, pp. 176ff.

³⁸ Powicke, *Thirteenth Century*, pp. 644–645.

³⁹ See, for instance, Rodger, *Safeguard*, pp. 78–79.

⁴⁰ Strayer, *Reign*, p. 319.

⁴¹ "such tactics [French royal support in court of appellants against ducal officials] paradoxically increased the threat of French authority in the duchy. Indeed, the abuse of Gascon appellants provided the French with an excellent justification for war against the English. When in 1293 Philip IV ordered Edward I to the French court to answer charges against him, the Capetian noted that the Gascon government had imprisoned appellants, extorted their property and homes, driven out their heirs, and even killed some litigants. All this was done, Philip declared, in contempt 'of the reverence owed us, in great and grave prejudice to our superiority and disdain of our jurisdiction'... Although there were a number of other French grievances, the abuse of appellants alone would have provided Philip IV ample reason to confiscate Edward I's Gascon fief." Kicklighter, J.A.,

seems that both Edward and Philippe were being forced by the escalation of events and the actions of their subjects to engage in a war that they—at least initially—did not want.

THE BRETON CONTEXT

Many of the above-mentioned historians correctly claim that the exact chain of events at sea is unknown to us, since most of the claims and counter-claims in the sources cannot be verified. However, the analysis by Hubert Michéa of sailing conditions off the western coast of Brittany in the Middle Ages makes at least some portions of the accounts credible.

Based on two contemporary diplomatic documents which mention that the island of Kyvenois or Keveneys was located on the Breton west coast near Le Conquet, Michéa convincingly demonstrates that the Kymenois mentioned in the Cinque Ports' account was probably the Island of Quéménès.⁴² Michéa shows this in the following way: The travel time between England and Bordeaux could take anything from seven to thirty or more days depending on the circumstances. When going to and from Bordeaux, one would normally sail by the Raz du Four and Raz de Sein, and one would often have to stop for provisioning, especially fresh water, and safe haven in case of bad weather at Saint-Mathieu, l'Aber du Conquet, Camaret, Morgat near Crozon or Bertheaume.⁴³ However, here the mariners had to pay sea taxes to the counts of Léon which, unsurprisingly, were detested. So, in good weather the mariners tried to circumvent these straits by sailing around the Island of Ouessant or by anchoring and provisioning for water at the archipelago of Molène, specifically the Island of Quéménès, where there was a freshwater source and where they would be out of the immediate reach of the toll collectors from Le Conquet. The mariners had to hurry in taking on water, however, for the tide changed every six hours. If they arrived at low tide at the end of the day, they could

"French jurisdictional supremacy in Gascony: One aspect of the ducal government's response," *Journal of Medieval History*, 5 (1979), 132. For a similar argument, see Firnhaber-Baker, Justine, "Seigneurial war and royal power in later medieval southern France," *Past and Present*, 208 (2010), 63–64. See also Favier, *Philippe le Bel*, p. 211.

⁴² Michéa, Hubert, "L'île des Quemenes et les relations entre Bayonnais et Bretons 1292," in J. Bourgoïn et al., eds, *L'aventure maritime, du golfe de Gascogne à Terre-Neuve* (Paris, 1995), pp. 288–289.

⁴³ Michéa, Hubert, "L'abbaye de Saint-Mathieu, la mer, la guerre, la ville (XIII–XVI^e siècle)," in B. Tanguy and M.-C. Cloître, eds, *Saint-Mathieu de Fine-Terre à travers les âges* (Plougouvelin, 1995), p. 196.

leave six hours later at high tide and thus cross the dangerous Breton west coast in the minimum of time. If, however, they remained for too long on the island, or if they missed the tide, they ran the risk of being charged by the toll officers and being stranded on the island for a longer period of time. Michéa estimates (based on the amount of water taken in on an eighteenth-century ship in this area) that a person needed two litres of water per day. If one had a crew of thirty men, which seems usual for the ships at the time, and one would take on water for ten days, this would add up to 600 litres of water. Michéa assumes that it took one hour to fill twelve fifty-litre barrels with water and then some time to transport the barrels to and from the source. Accordingly, the crews could quite easily get into a struggle over who was to draw water first, since the changing tides forced them to hurry if they wanted to avoid being stranded on the island. Under these stressed conditions, and perhaps further stimulated by an already existing animosity between different groups of mariners, conflict was liable to break out.⁴⁴ From this perspective, the quarrel at the freshwater source seems plausible and even understandable.

DOGS, BAUCENS AND A RAID UP THE CHARENTE

The sources for the maritime war between the Anglo-Bayonnais and the Normans in 1292–93 contain three interesting practices of war which I will analyse in the following section. These are the hanging of mariners with dogs, the use of the red banner, the *baucens*, as a sign of a special kind of war and a Norman raid up the Charente River in 1293. Collectively, I consider these practices as signs of a maritime war or a *guerra maritima*, but I reserve the explanation of this term for the end of the chapter.

It should be pointed out here that only Anglo-Gascon sources are consulted for these events. To my knowledge no Norman account of events exists. Nevertheless, even if the Norman mariners did not do the things that they were accused of here, these actions were still within the credible limits of contemporary beliefs. Thus, these sources describe credible practices for maritime war, whether the Normans had recourse to them or not.

The Hanging of Mariners With Dogs

The hanging of the mariners with dogs is mentioned in several of the sources. In the Cinque Ports' account, it was claimed that when the

⁴⁴ Michéa, "Quéménès," pp. 290–291.

Malouins and the Normans attacked the Bayonnais at Saint-Malo, “they hanged some and others they flayed and hung by their skins, and they hung dogs next to the Christians despite the Christianity of you [Edward I] and your men”.⁴⁵ This is the only time when the document states that the Normans hanged men with dogs, but the theme of hanging defeated mariners from the ship’s yard-arm is repeated throughout the text. In the attack on an Irish vessel off Cherbourg, the Normans “took the ship and killed the mariners and hanged a boy from the yard-arm, and they took the 500 pounds and took the ship to the harbour of Caen with the boy still hanging from the yard-arm”.⁴⁶ The document also mentioned how a London merchant was attacked at the Seine estuary and the mariners were hanged from the yard-arm of their ship.⁴⁷ However, these descriptions do not dominate the accounts; the usual model is that the Normans attacked the vessels, plundered them and killed all or part of the crew, took the survivors prisoner, held them for ransom and finally sunk the ships. These descriptions of hanging seem to be included in the document to display the extreme savagery of the Normans. Nevertheless, that these horrible descriptions do not dominate the account could be an argument for their veracity, since one would assume that in a genuine vilification campaign this savagery would have been exaggerated and expanded to include all the Norman attacks. Accordingly, a tentative rendition of at least some of the Normans’ procedures would be that they hanged the defeated mariners from the yard-arms, at least on one occasion with dogs. This depiction is supported by five English chronicles. Guisborough writes that the Normans on one occasion “hanged men with dogs on the masts of their ships and by sailing thus they did not differentiate between dog and Englishman”.⁴⁸ In the *Flores Historiarum*, the story is repeated: “A very great discord broke out between the English and the Normans. Indeed, the Norman mariners in their furious [and erroneous] assaults massacred some Englishmen in various ways while others were hanged from the

⁴⁵ “les uns pendirent, e les autres escorcherent e les pendirent par leur quirs de mesme e pendirent mastins juste les cristiens en depit de la cristiente et de vous [Edward I] e de vos homes.” TNA C 47/31/5/1, Champollion, I, 395.

⁴⁶ “e la neef pristrent e occistrent les maryners e un garcoun pendirent a la verge del tref e les cinck cent livres pristrent e menerent la neef en le havene de Caen a tut le garcoun pendu.” TNA C 47/31/5/1, Champollion, I, 393.

⁴⁷ TNA C 47/31/5/1, Champollion, I, 395.

⁴⁸ “suspendentes homines cum canibus in trabibus nauium suarum, et sic per mare nauigantes nullam faciebant differenciam inter canem et Anglicum.” Guisborough, pp. 240–241.

ship's yard-arm with dogs".⁴⁹ The *Annales Wigornienses* states that: "The Barons of the Cinques Ports [are] grieving their associates [who were] maimed by the Normans, hanged between dogs and flayed. In the same [month of] May, they engaged in naval battle with the killers and, 246 warriors and mariners having been killed, the victorious English returned with much booty".⁵⁰

Rishanger also mentioned the hanging of men from the yard-arm, however without the mentioning of dogs.⁵¹ The somewhat later *Chronicon de Lanercost* mentions that Charles de Valois "subjected pilgrims and scholars to many afflictions, even putting some poor people to death on the gallows and hanging beside them live dogs to which he likened them".⁵² In the English translation, the editor noted that in the margin of the manuscript "is sketched a gallows whereon hang some Englishmen, alternated with dogs".⁵³ It should be noted, however, that this was not the treatment suffered by mariners, but by English pilgrims and scholars in France.

It should come as no surprise that these English accounts would emphasize the savagery and ruthlessness of their adversaries. Initially, one might understand these allegations of hanging men with dogs as a charge invented to vilify the opponents, garner sympathy for the English mariners and consequently consider their retaliation as self-defence. However, the hanging of the men from the yard-arms seems to have been a traditional maritime custom for dealing with criminals and enemies in the Middle Ages, as for instance shown by the French chronicler, Geffroi de Paris,⁵⁴ and it was a practice that continued well into the modern era.

⁴⁹ "Orta est discordia magna nimis inter Anglicos et Normannos. Maritimi etenim Normannorum in impetus furoris sui [sive erroris] quosdam de Anglicis diversis mortibus trucidarunt, alios super virgam mali navis cum canibus suspenderunt." *Flores*, III, 85.

⁵⁰ "Barones Quinque Portuum dolentes socios suos a Normannis truncates, inter canes suspensos, et excoriatos, id. Maii cum homicidis naval prælium commiserunt, et interfectis bellatoribus et nautis navium ducentarum et xlv, cum præda maxima victores Anglici redierunt", *Annales Wigornienses*, p. 512.

⁵¹ Rishanger, p. 131. "quemdam Anglicum trahentes de navi sua, mox in summitate mali navis Normannici suspenderunt."

⁵² "quosdam etiam pauperes suspendio trucidavit, et canes vivos, eorum ut reputabat similes, lateribus eorum appendit." *Chronicon de Lanercost*, ed. Joseph Stevenson (Edinburgh, 1839). p. 150. *The Chronicle of Lanercost*, transl. Herbert Maxwell (Glasgow, 1913), p. 96.

⁵³ *Chronicle of Lanercost*, p. 96, n. 2. I have not been able to locate this sketch, however. To my knowledge it is neither to be found in the manuscript in the British Library nor in the legal and diplomatic records in the TNA.

⁵⁴ Geffroi de Paris, ll. 7593–7598, p. 163. "Cel temps, Flamens par mer aloient;/ Avec Baonnois se routoient;/ Blez et vins assez par mer prirent;/ Et moult granz damages firent/ Aux Anglois, et moult en occirent;/ Et d'autres plusors en pendirent."

In the seventeenth and eighteenth centuries, in the Caribbean, captured and executed pirates' bodies were hoisted on the yard-arms when entering a friendly harbour to display a successful pirate hunt.⁵⁵ The hanging of pirates or defeated enemies next to dogs, however, seems especially demeaning. Nevertheless, the charge of hanging men with dogs might actually be true. In the following, I will explore the symbolic meaning of the dog, and why it was so demeaning to be hanged with one. This will render credibility to the impression that the Normans might actually have done this.

In the Middle Ages, the perception of the dog was ambiguous. Some historians have stressed the overall positive view of the dog in the Middle Ages, since its function in the hunt (the sport of nobles) and as watch-dogs led it to be praised, especially for the virtue of loyalty.⁵⁶ Others, however, stress the negative symbolism of the dog equally. An example of this opposing view can be seen in the interpretation of a ritual of punishment in twelfth-century Germany, which entailed that a rebellious nobleman begging forgiveness of his liege lord should crawl on all fours through the village with a dog on his back (the so-called *Hundetragen*). Bernd Schwenk claims that this ritual was a way of redeeming oneself, as the carrying of the dog was a demonstration of one's renewed loyalty, since the dog was the symbol of this virtue. Far from being a degradation of the rebellious nobleman, according to Schwenk this should be seen as a return to honour, since the dog was not an ignoble beast but rather one of the most praised animals in the Middle Ages.⁵⁷ Opposing this view, Mariëlle Hageman has stated that the carrying of a dog in a medieval judicial ritual could never be perceived as anything other than a degradation. Drawing on, for instance, the description of the dog in the Revelation of John, where dogs are compared to the sexually immoral, murderers, idolaters and everyone who loves and practices falsehood,⁵⁸ Hageman presents the dog as a symbol of disloyalty, infidelity, laziness, dirtiness, greed, lack

⁵⁵ Earle, *Pirate Wars*, p. 145.

⁵⁶ See Janotta, C.E., "Der Hund im Mittelalter," *Innsbrucker Historische Studien*, 14/15 (1994), 13–32, and Figg, K.M., "Froissart's 'debate of the horse and the greyhound': Companion animals and signs of social status in the fourteenth century" in T.S. Jones and D.A. Sprunger, eds, *Marvels, Monsters and Miracles* (Kalamazoo, 2002), pp. 85–107.

⁵⁷ Schwenk, Bernd, "Das Hundetragen: Ein Rechtsbrauch im Mittelalter," *Historisches Jahrbuch*, 110 (1990), 298–299.

⁵⁸ Revelation 22:15 "foris canes et venefici et in pudici et homicidae et idolis servientes et omnis qui amat et facit mendacium", Biblia Vulgata: <http://www.fourmilab.ch/etexts/www/Vulgate/Revelation.html> accessed 31 January 2012.

of self-control and madness due to rabidity. Hageman concludes that far from being an animal with which one associated positive traits overall, the dog was more likely a symbol of fundamental flaws.⁵⁹ This view is supported by Galbert of Bruges' description of the execution of the provost of Ypres. He wrote: "the people of Ypres, thirsting for the death of the provost, twisted the viscera of a dog around his neck, and placed the muzzle of a dog next to his mouth, now drawing its last breath, thus likening him and his deeds to a dog".⁶⁰

Hageman's view of the dog's role in rituals of degradation is supported by Joyce Salisbury. In *The Beast Within* she writes:

The mental images that caused people on the one hand to claim superiority over the animal world and on the other to note the reality that they were joined to their animals in liability for their animals' behaviour was expressed in some laws that punished people by reducing them to a bestial level, an ultimate humiliation.⁶¹

Aleksander Pluskowski has reached the same conclusion in regard to the dog's status in the early and High Middle Ages. He notes that "in northern Europe, the wolf (alongside the 'servile' dog) was more often than not singled out as an animal referent for the bestial degradation of humanity".⁶² While he concedes that Christianity seems to have introduced a difference between wolves and dogs, where dogs were seen as the protector of the flock against the wolf, in the vernacular Marie de France's *lais* "canine loyalty is only praised in a single tale—all the others represent dogs as greedy, litigious and garrulous. Wolves, though cruel and rapacious, stand for fallen nobility, but nobility nonetheless".⁶³ Thus, in Pluskowski's view, there seems to have been a gradual transition of the dog's symbolic role

⁵⁹ Hageman, Mariëlle, "De gebeten hond? Het gebruik van honden in rituelen van vernedering," *Madoc: Tijdschrift over de Middeleeuwen*, 12 (1998), 270.

⁶⁰ Galbert of Bruges, *De multro, traditione, et occisione gloriosi Karoli comitis Flandriarum*, ed. Jeff Rider (Turnhout, 1994), p. 109: "Iprensium igitur turba, furens in mortem praepositi, canis viscera contorserat circa collum ejus et os canis ad os ejus jam vitalem spiritum expirantis opposuerunt aequiparantes cani ipsum et facta ipsius." Translation: Galbert of Bruges, *The Murder of Charles the Good*, ed. and transl. James B. Ross (Toronto, 1993), pp. 211–212. I am indebted to Stephen D. White for bringing this passage to my attention.

⁶¹ Salisbury, Joyce E., *The Beast Within: Animals in the Middle Ages* (New York and London, 1994), p. 39.

⁶² Pluskowski, Aleksander, *Wolves and the Wilderness in the Middle Ages* (Woodbridge, 2006), p. 173.

⁶³ Pluskowski, *Wolves*, p. 88.

during the Middle Ages, and while it was praised for its loyalty, it was also despised for its servility.

In his treatment of the holy greyhound Guinefort, Jean-Claude Schmitt notes the connection that people made between the *canicule* (an annual Mediterranean heat wave) and rabid dogs. While this connection applies to the association between meteorological and astrological phenomena and animal behaviour, the belief connects dogs' madness (rabidity) with the forces of nature at the same time as also expressing a general view of dogs being prone to madness.⁶⁴

This view of the dog's inherent madness was expressed by Peter Langtoft, who wrote about the Scots' attack on England: "Which the mad dogs have worked in their folly".⁶⁵ Langtoft furthermore stressed the lowness of the dog. Thus, when he wrote about the Gascon War: "The proud Frenchman would bring us so low/ And cause us to be honoured no more than dogs".⁶⁶ Another example of the value attributed to dogs can be found in Froissart's account of the Jacquerie and their massacres of French nobles in 1358. He wrote: "these evil people assembled without the direction of a leader or armour and they robbed and burned everything and killed all the noblemen they could find and they restrained and raped all ladies and virgins without pity and without mercy like mad dogs. Indeed never among Christians or Saracens were there those who would commit such mad acts as these evil people committed".⁶⁷ On the Battle of Roosebeke, 1382, Froissart likewise wrote that the French footsoldiers, armed with daggers, slaughtered the Flemings and that they showed them no more mercy than would have been shown a dog.⁶⁸ This quotation clearly shows the low status of the dog—that is, as a being to which one would not show mercy. Being called a dog (*chien*) was also a terrible insult. Nicole Gonthier notes that the insults of dog and excommunicated were often combined, and concerning the dog, she writes that "the dog is an animal which one kills

⁶⁴ Schmitt, Jean-Claude, *Le Saint Lévrier* (Paris, 1979), pp. 200–213.

⁶⁵ "Ke les fols mastyns ount bracé par folage." Langtoft, pp. 232–233.

⁶⁶ "Li Fraunceys orgoullous à [si] bas nus menerait/ Et nent plus ke mastyns honurer nus frayt." Langtoft, p. 214.

⁶⁷ "ces méchants gens asamblés sans chief et sans armures, roboient et ardoient tout et tuoient gentils hommes qu'ils trouvoient, et efforchoient et violioient toutes dames et pucelles sans pitié et sans merchy, ensi comme chiens enragiés. Certes oncques n'avint entre crestiens, ne Sarrazins telle forsenerie que ces méchants gens faisoient." Froissart, VI, 45–46. See also p. 49, n. 8 and p. 51.

⁶⁸ "A paines estoient Flament cheu, quant pilliart et gros varlès venoient, qui se boutoient entre les gens d'armes, portoient grandes coustilles dont il les parochioient, ne nulle pitié il n'en avoient non plus que che fussent chien." Froissart, X, 171.

as a public health measure to eradicate the danger of wandering packs. It is evident how this comparison can wound; it implies that the person to which it applies is not worth more than one of these pestilent beasts which one dispatched of in a rather inelegant fashion".⁶⁹

The use of dogs in judicial procedures for torture and punishment is documented in the punishment of a Jew in Paris in 1391:

Salmon de Barselonne, Jew and then convert. He was condemned to be hanged by the feet with a big dog on each side. Then he was encouraged to convert to Christianity and to be baptised to save his soul. And under the crenelation of the Chatelet he was baptised by the chaplains of St. Germain and his godfathers were an officer of the court, a mounted sergeant and the jailer. And when this was done he was hanged by the neck.⁷⁰

It is interesting that while Salmon was executed, his companion was only beaten and banished from the kingdom. Thus, it was in some way a punishment for a crime committed by the Jews but which for Salmon's part first entailed a shaming "ritual" by hanging him with dogs from his feet, probably to force him to convert so that the French could execute him with a clear conscience, confident that his soul would be saved. This was a recording of a true occurrence which, however, had been put into a *hapax* (a manual establishing the guidelines of how different crimes were to be treated. It was almost certainly written on the orders of the Provost of Paris, Jean de Folleville). Thus, the entry was not a singular occurrence,⁷¹ but rather an example of a cultural custom of punishment for these types of crimes.

On a final note, in *Mad Blood Stirring* Edward Muir draws the attention to the connection between dogs and revenge in late medieval Friulian vendettas. In the language used to describe these vendettas, the enemy was styled as or likened to dogs or pigs because of their perceived

⁶⁹ "Le chien est l'animal que l'on tue par mesure de salubrité publique, afin d'écarter le danger des meutes errantes. On sait en quoi la comparaison peut meurtrir; elle sous-entend que la personne à qui elle s'applique ne vaut pas plus qu'une de ces bêtes, considérées comme nuisibles, dont on se débarrasse, en general, de façon peut élégante." Gonthier, Nicole, "*Sanglant Coupoul!*" "*Orde Ribaude*". *Les injures au Moyen Âge* (Rennes, 2007), p. 108. See also Muir, Edward, *Mad Blood Stirring* (Baltimore, 1998), p. 142.

⁷⁰ "Salmon de Barsolonne juif et depuis convers. Il fut condamné a estre pendu par les piez et deux (gros) chiens d'un costé et d'austre et apres fut envorté de soy faire cretien et batisiez pour sauvez son ame. Et sus les quarreaux de Chastellet fut betisé par les chapelains de Saint-Germain et furent ses parrains ung examinateur, sergent à cheval et la geoliere. Et ce fait fut executé et pendu par le col." Gauvard, Claude "Compter le crime," in C. Gauvard, *Violence et ordre public au Moyen Âge* (Paris, 2005), p. 31.

⁷¹ Gauvard, "Punir le crime," p. 59.

filthiness, promiscuity, senseless aggressiveness and indeed the profanity of these animals. Accordingly, the enemies were sometimes—as a final act of disgrace—fed to dogs or pigs. For instance, a defamatory sonnet circulated in Venice “ended with a vision of the traitor hanging by his foot from the gallows while dogs and crows pulled apart his body”.⁷²

With this analysis of the view of the dog in the Middle Ages, I return to the Normans and their treatment of the defeated English. As was apparent even in the English chronicles, the Normans (erroneously in the English opinion) felt they had been deprived of justice and consequently took action themselves to obtain restitution and revenge. Indeed, denial of justice was one of the defining reasons for waging a *guerra*—a noble private war.⁷³ In fact, both Rishanger and Guisborough stated that the Normans at first tried to get restoration through the normal channels, that is, through an appeal to Philippe or Edward I. While several of the English chronicles described the fury and madness of the Normans, they still maintained the notion that this was a Norman act of private justice.

It is in this light that the hanging of men with dogs from yard-arms becomes credible, for as an act of degradation it expressed the criminality of the English for their killing of a Norman. It also expressed the Normans' consideration of the Anglo-Bayonnais as a greedy, rapacious and litigious lot with no more honour than dogs. Accordingly, this was the treatment that they merited. While it is uncertain how widespread this treatment was (it might indeed have happened only on one occasion, which the chroniclers picked up, since it expressed the savagery of the Normans), given the circumstances it certainly seems credible. Thus, the motives of the Norman aggression differ from the primarily profit-oriented piracies described in chapter 2.

Justine Firnhaber-Baker has analysed the techniques of seigneurial war in the fourteenth century. Concerning these wars, she writes that they

almost invariably involved acts of violence and domination that produced no direct material benefit for the attackers, but which humiliated their enemy, resulting in the loss of prestige for the opposition and reinforcing bonds of solidarity within the attackers' own group.... Certain noblemen erected gallows and performed executions in enemy territory during a war in order to claim jurisdiction and demonstrate dominance... No one can really have thought that these performances represented the normal

⁷² Muir, *Mad Blood*, p. 141.

⁷³ Keen, Maurice, *The Laws of War in the Late Middle Ages* (London & Toronto, 1965), pp. 73 and 226.

functioning of seigneurial justice, but they served to demonstrate publicly the lord's claim to jurisdiction, his (or occasionally her) ability to enforce that claim and his opponent's impotence in the face of this violence.⁷⁴

The hanging of mariners with dogs should be seen in the same vein as what was done by nobles on land, namely a demonstration of power over the sea, the criminality of the Anglo-Gascons and that justice had been served. It was thus more akin to the noble private war than mere piracy for profit.

The Baucens

The second practice evoked by the Portsmen was the Normans' alleged use of the *baucens*. The Cinque Ports petition states the following regarding the Norman fleet which returned from Bordeaux in 1293:

with 190 ships well manned with men-at-arms, castles erected fore and aft and on each masthead. They wore banners of red silk [*celand*] each 2 ells broad and 50 long, called *baucans*, what the English call 'streamers', which among mariners everywhere signify war to the death [*guere mortele*]. Thus in peacetime and without warning the Normans wickedly attacked your people. . . . And all these things were done as acts of warfare begun and continued by the Normans as is known by all . . . thus, we are not held to make restitution nor amends since it is the usage and law of the sea that things done or taken at sea in war where the said *baucens* are hoist do not warrant restitution nor amends by one party to the other displaying this banner. It is furthermore the usage and law of the kingdom of England that if a man kills or does a similar act in self-defense he is not held to cause either in times of peace nor in times of war.⁷⁵

⁷⁴ Firnhaber-Baker, Justine, "Techniques of seigneurial war in the fourteenth century," *Journal of Medieval History*, 36 (2010), 98.

⁷⁵ "c lxxxx [the TNA C 47/31/6 has 'cc'] neefs bien eskipees de gent de armes chasteus hordys devaunt e derere, chasteus au somet de chescun mast banere despleis de ruge cendeal chescun banere de ii aunes de large et xxx aunes de long lesqueles banere sount apele *baucens* et la gent de Engleterre les apeles *stremeres* e celes baneres signifient mort saunz remede et mortele guere en touz les lious ou mariners sount et en cele fourme et en cele manere Normaundz vindrent sur vos gentz e les asailirent ffeluneusement en cuntre la pees avaunt crie . . . Et tutes cestes choses sunt fetes par fet de guere comencee et continuee par Normaundz e notories sunt e apertes . . . nous ne sumes tenu fere restitucions ne amende si nule chose eit este fete, ou prise par nous en la dire guere kar il est usage et ley de mer qe des choses fetes, ou prises sur mer en guerre meimement ou le dit Baucan seyt leve ne doit estre fete restitucioun ne amende del une partie a le autre qi tele banere leve Cest usage et ley del reaume de Engleterre, qe si home feist une mort ou autre fet semblable en soi defendaunt il nest tenus de ceo ne en tens de pees, ne de guerre." TNA C 47/31/5/1—see Appendix 4, Champollion, I, 396–97. Marsden, *Law and Custom*, pp. 53–54,

Several interesting things are stated in this document, which describes how war and aggression at sea were perceived. The immediate purpose of this description was obviously to exculpate the Ports-men for the plunder of a Norman fleet. Accordingly, they would refer to commonly recognised signs for war and piracy at sea. Thus, first of all they stated that the Normans had erected castles on both sterns and on the mast, like men of war. While life at sea in the Middle Ages was always a risky affair because piracy abounded, the raising of castles and the manning of the ships with warriors were unusual because the castles would slow the ships down. Furthermore, by manning the ships with additional warriors and by only charging half a load it clearly indicated that they had ill-intent. Thus, to all intents and purposes, the Normans were on the war-path. Peaceful trading was just a pretext for sailing south. One could argue, however, that, at least in 1293, the raising of castles, the manning with extra warriors and charging half a load could just as well be seen as safety precautions in hostile waters. Indeed, in the same source, the English stated that they, too, at one point only charged half a load, stating that this was out of fear of Norman pirates. What really justified the Anglo-Bayonnais attack was the display of the *baucens*. By unfurling the *baucens*, the Normans effectively declared the harshest type of war in the Middle Ages, *la guerre mortelle*, literally a merciless war to the death,⁷⁶ which effectively put aside all other conventions of conflict at sea, namely reprisal and restitution. Frederic Cheyette commented that the *baucens* signalled the maritime equivalent of chivalric warfare and that this most probably denoted an old maritime custom; Robert Jones has argued that the unfurling of banners before a battle was the traditional way of legitimising the ensuing acts of war.⁷⁷ Likewise, Maurice Keen noted that the display of banners had a considerable legal significance, since actions taken under these circumstances were performed “*in actu belli*”.⁷⁸

There are two components to the analysis of the *baucens*, the name and the symbolism of the colour red on banners.

English Naval Documents, p. 20 states the Norman fleet counted 190 ships, not 200 or 290 as Champollion and Marsden assumed. The translation is partially based on the one given in *English Naval Documents*.

⁷⁶ Keen, *Laws of War*, pp 104–6, Kaeuper, *War*, p. 227.

⁷⁷ Cheyette, Frederic L., “The sovereign and the pirates, 1332,” *Speculum*, 45. (1970), 58, Jones, Robert W., *Bloodied Banners* (Woodbridge, 2010), pp. 53–54. See also Firnhaber-Baker, “Seigneurial war,” p. 46.

⁷⁸ Keen, *Laws of War*, pp. 106–107.

The name itself is somewhat rare in the sources, at least when it comes to maritime conflict. Banners clearly played an important role at sea, enabling ships to recognise each other, not least to determine friend from foe, as an agreement between Flanders and England stipulates in 1297.⁷⁹ In addition, banners could clearly deter and scare off pirates, as the English king's and the admiral's banners did in 1314 against Flemish pirates.⁸⁰ Nevertheless, to my knowledge, the name *baucens* is only encountered twice elsewhere between 1280–1330, namely in 1296 in the account for the expenses of the French fleet by Count Jean d'Arrode and Miqueu de Manx, and in 1324 when Edward II ordered that the galleys which were being built should be supplied with *baucens*.⁸¹

According to both Frédéric Godefroy's *Dictionnaire de l'ancienne langue française* and Algirdas Julien Greimas' *Dictionnaire de l'ancien français*, the name *baucens* means "spotted with clearly separated black and white colours", and it was usually used to describe the appearance of horses.⁸² In *Glossaire Nautique*, Augustin Jal was at a loss to explain the origin of the name *baucens* and how it was connected with the red banner described by the Portsman in 1293. However, he noted that the Knights Templar had a black-and-white banner called *baucens*.⁸³ The Templars' banner and the red banner of the mariners only had the name in common, though.

In *La Règle du Temple* (probably from between 1257 and 1265),⁸⁴ the *baucens* is described in article ninety-nine as a black-and-white banner used by the seneschal and signifying command. The editor, Henri de Curzon, noted that:

This word signifies simply a division of two coulours, here the black and white. . . . The term *baucens* . . . was mostly applied to horses, etc. It is a corruption of the original meaning of the term that resulted in the naming of the banner itself as the *baucens*, and so the new meaning was not confined to the Knights Templar as one is sometimes led to believe. Rather it was used by Christians and pagans alike from the Orient as well as the West. . . . Often, it is that which we called the *flamme*, a long and straight two-pointed pennon flying from the top of the mast of a ship.⁸⁵

⁷⁹ Marsden, *Law and Custom*, p. 46.

⁸⁰ *Foedera 1307–1327*, p. 262.

⁸¹ Jal, *Archéologie*, II, 323, Marsden, *Law and Custom*, p. 50, n. 1.

⁸² Godefroy, F. *Dictionnaire de l'ancienne langue française*, 10 vols (Paris, 1937–38), I, 602, Greimas, A.J. *Dictionnaire de l'ancien français* (Paris, 2001), pp. 56 and 60.

⁸³ Jal, Augustin, *Glossaire nautique* (Paris, 1848), pp. 277–278.

⁸⁴ *La Règle du Temple*, ed. Henri de Curzon (Paris, 1886), pp. iv–v.

⁸⁵ "Ce mot signifie simplement mi-parti de deux couleurs; ici le noir et le blanc. . . . le qualificatif *baucens* . . . s'appliquait surtout aux chevaux, etc. C'est une corruption du

This last remark leads us away from the Templars, whose influence, despite their exploits as sea-warriors in the Mediterranean, seems rather unlikely in regard to a practice by mariners in northern Europe. Rather, it seems as if the Templars had adopted the general term *baucens* and applied it to their specific banner, since the meaning corresponded to their heraldic colours.

However, Henri de Curzon's reference to the *flamme* corresponds rather well with the Cinque Ports' account. The significance of a red banner used in warfare is probably best seen in the French kings' Oriflamme, which was precisely a long, purely red banner. The Oriflamme was (at least ideally) only to be used against infidels and rebels, because it signified *guerre mortelle*. Guiart described the Oriflamme in the following manner: "The *Oriflamme* is a banner, somewhat bigger than a pennon. It is a plain banner of red silk and it is unadorned by any motif".⁸⁶

Samuel Cohn has remarked that the Oriflamme was used, at least in the fourteenth century, not only by the kings of France but also by the count of Foix, the duke of Orléans and the capital de Buch against the Jacques in 1356. However, Cohn states that until the battle of Roosebeke in 1382, the banner was theoretically only to be used against the infidels.⁸⁷ On the other hand, Duby seems to think that it was displayed at the battle of Bouvines in 1214,⁸⁸ in which the Flemings and the English could be seen as rebels against the divinely anointed king, thus in a sense as enemies of the Christian divine order. This interpretation is supported by Keen's reflections on the significance of red banners. He remarks that it only seems to have been unfurled in moments of dire necessity and when no quarter was to be given. Accordingly, it was unfurled at the Battle of Crécy (1346), the Battle of Poitiers (1356) and at the Battle of Roosebeke (1382). Concerning the use of the banner at Roosebeke, Keen notes that, according to Froissart, the Oriflamme was only unfurled after much deliberation

sens primitif qui a appelé l'étendard même le baucens, et alors le nouveau sens primitif n'appartient pas au seul ordre du Temple, comme on le croit quelquefois, mais à tous chrétiens ou païens, de l'Orient et même de l'Occident. . . . Souvent, c'est ce que nous appelons la flamme, long et étroit pavillon à deux pointes, fixé au haut des mâts des navires." *La Règle du Temple*, p. 87, n. 3.

⁸⁶ "Oriflamme est une bannière/ Aucun poi plus forte que guimple/ De cendal roujoiant et simple,/ Sanz portraiture d'autre affaire." Guiart, Guillaume, *La Branche des Roys lig-nages*, ed. J.A. Buchon, 2 vols (Paris, 1828), vol. 1, v. 1151.

⁸⁷ Cohn, Samuel K. Jr., *Lust for Liberty* (Cambridge & London, 2006), pp. 190 and 307, n. 76.

⁸⁸ Duby, *Feodalité*, pp. 869 and 983.

and because the Flemings were considered no better than enemies of the faith.⁸⁹

In his analysis of the history of the Oriflamme, Philippe Contamine has several important observations. Like the *baucens*, the Oriflamme was, at least until the reign of Philippe VI, a plain red banner. Also, like the *baucens*, the significance of the Oriflamme was victory or war to the death.⁹⁰ Contamine notes some medieval authors' focus on the blood thirst of the banner. Indeed, Richer de Senones writing between 1255–1267 on the Battle of Bouvines claimed that: "This Oriflamme thirsts for human blood as many are witnessing. Thus today with the help of God I [Gale, the knight who carried the Oriflamme] shall let it drink heavily of the blood of the enemies."⁹¹ He thus argued that the Oriflamme literally drank the blood of the adversaries. The purpose of the *baucens* as well as the Oriflamme seems to be to strike terror in the adversary, exactly because of the merciless warfare that it entailed. According to the *chansons de geste*, the Oriflamme was not only used by Charlemagne and the kings of France, but also by more lowly barons which indicate the more general use and significance of the red banner.⁹² Interestingly, the English chronicler Geoffroi le Baker wrote on the Battle of Crécy that once the Oriflamme was raised

it was not allowed on pain of death to take prisoners for ransom. I should tell you that it was called the Oriflamme, as showing that when French mercy was set on fire, it was not able to spare the life of any man for ransom, just as oil, when set alight, cannot spare anything that is inflammable.⁹³

Thus, like Richer he stressed the insatiable bloodlust which the Oriflamme waked in the French.

⁸⁹ Keen, *Laws of War*, pp. 105–106.

⁹⁰ Contamine, Philippe, "L'Oriflamme de Saint-Denis aux XIV^e et XV^e siècles," *Annales de l'Est* (Nancy, 1975), 193 and 218.

⁹¹ "quia auriflamma ista humanum sitit sanguinem, Deo mihi praesante, multis videntibus, hodie eam sanguine adversariorum potabo." Quoted in Contamine, "L'Oriflamme," p. 194, n. 1.

⁹² Contamine, "L'Oriflamme," pp. 187 and 195–196, Duby, *Feodalité*, p. 983.

⁹³ "vexillum quod vocatur Oliflammum, quo erecto, non licuit sub poena capitis aliquem capere ad vitam reservandum. Vocabatur inquam Oliflammum, signans misericordiam Francorum incensam aliquem mortalem posse reservare ad vitam non posse, sicut nec oleum inflammatum alicui cremabili posse parcere." Geoffrey le Baker, *Chronicon Angliæ*, ed. John A. Giles (London, 1847), p. 164. *The Chronicle of Geoffrey le Baker*, eds David Preest and Richard Barber (Woodbridge, 2012), p. 73.

While the Oriflamme seems ideologically only to be used against infidels (that is in crusades),⁹⁴ the continual use of it against especially the Flemings, but also against the English in the thirteenth and fourteenth centuries, suggests that it would likewise be used in wars against rebels and enemies in general of the realm.

Thus it seems that the Oriflamme and the *baucens* had a common origin as a red banner signalling war to the death, but from at least the twelfth century the French kings adopted the Oriflamme as their special banner. It was then imbued with a religious and ideological symbolism, which initiated a divergence from the common "red banner". Accordingly, these two banners had the same overall symbolism and reference to the same military conventions, but from the twelfth century onwards they should be seen as two related, but not symbolically identical, banners.

The use of a red banner for conflict at sea seems to have been a constant in naval warfare until the eighteenth century. In *The Pirate Wars*, Peter Earle writes that the first time the Jolly Roger was flown was by the French pirate Emmanuel Wynn in 1700.⁹⁵ The historian David Cordingly remarks in *Life Among the Pirates* that:

By 1730 the skull and cross bones on a black flag seems to have edged out the other symbols and been adopted by English, French and Spanish pirates operating in the West Indies. Before that date, however, there are examples of plain red or plain black flags being used according to a generally understood colour symbolism: black for death and red for battle. ... Basil Ringrose's account of his voyage with the buccaneers led by Captain Bartholomew Sharp includes an incident in January 1681. The buccaneers, in their captured prize the *Trinidad*, encountered three Spanish warships off the islands of Juan Fernandez. 'As soon as they saw us, they instantly put out their bloody flags, and we, to show them that we were not as yet daunted, did the same with ours.' There was an alternative meaning to the plain red and black flags. A French flag book of 1721 includes hand-coloured insignia, and a plain red flag alongside a red pennant. Under the red flags is written 'Pavillon nomme Sansquartier' ('Flag called No Quarter'). The idea that a red flag could mean no quarter is confirmed by Captain Richard Hawkins, who was captured by pirates in 1724. ... 'When they [pirates] fight under Jolly Roger, they give quarter, which they do not when they fight under the red or bloody flag.'⁹⁶

⁹⁴ In a sermon by Guillaume de Sauqueville, dated to the beginning of the fourteenth century, the red colour of the Oriflamme was claimed to symbolise the *furor legis* of Christ. Contamine, "L'Oriflamme," p. 232, n. 1.

⁹⁵ Earle, *Pirate Wars*, p. 154.

⁹⁶ Cordingly, David, *Life Among the Pirates* (London, 1995), pp. 140–141.

Thus, the red banner seems to have a medieval origin and to have been a constant in combat at sea and in war to the death well beyond the Middle Ages. While it was used on land as well, the significance cannot have been restricted to the Oriflamme, which in this case must be seen as merely the most illustrious example of this ill-portended banner.

What the Portsmen thus argued in their account was that the *baucens*, by usage and the law of the sea, was the sign of war to the death, that the usual system of reprisal and restitution was annulled and that they were free of guilt and charge. This is referred to as a matter of fact by the community of the sea, but it also appears as an explanation or perhaps rather a reminder to King Edward of the rules of war at sea. This is interesting, since it signals a right to engage in maritime war governed by the customs of the people of the sea, rather than by any royal law.

Leaving aside the one-sided and dubious portrayal of the chain of events in the Portsmen's account, it is remarkable that if one looks at the actions performed by the Norman mariners, they did not differ significantly from the way in which nobles waged war by plunder, killing, destruction and prisoner-taking. The only difference was that it happened at sea.

So in the end, it remains to be determined if the Normans did unfurl the *baucens* or not. There are good reasons for both believing and doubting it. What speaks against the account is, first of all, that it clearly served the purpose of exculpating the Portsmen of their killing of the Normans by stating that it was an act of war. Furthermore, it is initially doubtful that a trading fleet or convoy would unfurl such a banner and actively seek a confrontation, since the Normans, unlike their opponents, ran the risk of losing their valuable cargo. However, in favour of the unfurling of the *baucens* is that the Bayonnais at least, but probably also the Portsmen, clearly saw this as a war, not as a minor quarrel, a skirmish or an isolated act of piracy. Furthermore, given the course of events and the escalation of a latent conflict between the mariners seemingly brewing for a long time, it is not impossible that the Normans might actually have sought out a final confrontation, confident in their numbers and perhaps fuelled by their hatred, despite the fact that the battle may have started with a carefully prepared Anglo-Bayonnais ambush. This notion, however, rests on the size of the Norman fleet, as stated in the Portsmen's account. In the end, while we will never know whether the Normans actually unfurled the *baucens*, we are here made aware of the fact that it seemed to be an indisputable martial sign with a specific meaning, not only at sea, but also on land.

A Raid Up the Charente

A third account of the Normans' depredations is to be found in the report of the seneschal of Saintonge, Rostand de Soler, dated to 1293 and concerning a Norman plundering spree up the Charente River.

Apart from Bordeaux and the Gironde area, the Charente River was one of the primary locations for picking up wine to be taken north.⁹⁷ Since the Treaty of Paris, 1258–59, Saintonge had been divided between England (or more properly, the Duchy of Gascony) and France.⁹⁸ The dividing line was the Charente River, which effectively cut Saintonge in two. The left side of the river was English and the right side was French.

On the English side lay the nominal capital of Saintonge, Saintes. This had been the seat of the former comital power, and it was from here that the English (sous-)seneschal, Rostand de Soler, ruled in the English king's name. The Saintes Bridge over the Charente divided Saintes into an English and a French town.⁹⁹ This division was important, because, in their raid, the Norman mariners used the French side as a safe haven for operations against their adversaries and as a means of keeping their backs covered in case of retreat.

The following account and analysis is based on Rostand de Soler's report.¹⁰⁰ He accounted for the violence and terror practised by Norman mariners on the English side of the Charente River from Easter to Ascension, 1293. Some of this information is confirmed by the French royal officers' letters to Philippe le Bel.

In this period, a number of Norman mariners went to Gascony, as they did every year to freight wine. This time, however, there was a further purpose to their voyage, to strike a blow against their Anglo-Bayonnais adversaries in their own backyard. Armed with crossbows, swords, falchions and lances, and clad in haketons and bascinets, they entered the Charente River and soon started wreaking havoc. The Normans worked their way along the English side of Saintonge by attacking the areas from the estuary of the river to the area around Saintes. The neighbourhoods of Saint-Agnant, Saint-Nazaire-sur-Charente and Soubise seem especially

⁹⁷ Renouard, "Le grand commerce des vins," p. 269.

⁹⁸ Glenisson, Jean, "L'application de la 'paix' de Paris (1258) en Saintonge, de 1273 à 1293," in R.H. Bautier, ed., *La "France anglaise" au Moyen Âge* (Paris, 1988), p. 194.

⁹⁹ Glenisson, "L'application," pp. 196 and 204–205.

¹⁰⁰ The following analysis relies mainly on Rostand's report from TNA C 47/31/5/1. See Appendix 3.

hard hit, and the Norman bases of operations were probably Tonnay-Charente and Saint-Savinien (on the French side). In a manner reminiscent of their Scandinavian ancestors, they engaged in a riverine raiding campaign of violence, plunder, killing, rape, destruction and desecration of churches, culminating in an alleged threat to attack and burn the town of Saintes,¹⁰¹ presumably to punish Edward I for not bringing the English and Bayonnais mariners to justice.

Several things in this account are enlightening as to the nature of the mariners' war and their martial practice. The Norman mariners targeted churches and mansions, and their victims always seem to have been civilians and especially clergy. The defining feature of these targets were the relatively low risk of armed opposition and the large amount of valuables left with little effective defence and opposition. Thus, for instance, the church of Saint-Nazaire-sur-Charente was visited and plundered five times by various groups of Normans.

Indeed, the Normans (apart from two occasions) always operated in small groups, possibly to avoid too much attention, but also because their organisation was based on the ship's crews. The exact numbers of Normans implicated in the raids are unknown, but Rostand mentioned three named shipmasters, namely Gaufridus Gossa, master of the ship *La Rose de Leure* (presumably from Leure), Godefredus Cormean and Nicolas de la Mere, both masters of unnamed ships from Barfleur. These three ships carried twenty-two mariners (with masters), but it is clear from the report that more were involved in the assaults. These small groups may also explain their preferred method of assault. The Normans employed different tactics of subterfuge, surprise, breaking and entering—sometimes at night—and outright violent robbery.

The Normans stole practically everything they could lay their hands on. Obviously, they stole money and jewellery, but they also stole cheese, grain, bread, capons, chickens, cattle, weapons, tools like ploughs, utensils and garments like shirts and boots. This plunder was part of a general strategy, namely one of destruction and humiliation of the enemy, which, however, is better illustrated by some significant examples: the desecration of certain churches, the destruction of mills and wine barrels, and the acts of rape.

The fourth time that the church of Saint-Nazaire was attacked, the Normans came in force, 150 or more according to the report. They broke

¹⁰¹ Confirmed by ANF J 631, no. 8.

open ten barrels of wine and poured it on the ground and then proceeded to destroy chests, clothes and other household goods. The real travesty, however, was their plunder of the church itself. They stole the altar cloth, the candles, the ornamentation of the church including an image of the Virgin, and they took down the cymbals for the church bells and finally stole the Eucharist. Rostand remarks in the report than when they left the church, Gaufridus Gossa contemptuously chewed on the holy Eucharist to the detriment of his soul.¹⁰² In another assault, they stole the baptismal gowns for boys from the church, presumably to sell them on.

While this may be construed as a one-sided vilification of the Normans and their utter un-Christian and monstrous nature, it must be pointed out that the desecration was actually in retaliation for armed resistance in a previous Norman assault, where some of the Normans had been wounded. This resistance had forced the Normans to flee, and when they returned and thoroughly plundered the church, it was probably as revenge for this resistance.

The Normans also destroyed the mills of the priory of Soubise. A more telling act of devastation is, however, the consequent destruction of wine barrels by smashing them and pouring the contents on the ground instead of bringing them along. Although this initially seems idiotic, in all probability it was a calculated action. The Normans probably smashed the barrels because they had already filled their ships with wine on the French side of the river. One could argue that it was irrational to buy wine on the French side when they could take it “for free” from the English side, but by buying from the French and thus paying customs to the French royal officers, they in a sense “paid off” the officers and bought their protection, or at least their benevolence. The purpose was thus to destroy the livelihood of their enemies and to humiliate and terrorise them by deliberately demonstrating that they did not even want to take their wine.

Finally, on two occasions the Normans engaged in the rape of local women. Once again I propose that these actions of destruction and terror should be seen as part of the nobles’ *guerra*, in which coordinated destruction and rape was an integrated part.¹⁰³ Firnhaber-Baker writes about this:

¹⁰² “Gaufridus Gossa magister navis vocati Larosa sancta eucharistia usus fuit ipsam ut dicitur et fama refert corporaliter in sue detrimentum anime corporaliter masticando.” TNA C 47/31/5/1.

¹⁰³ Firnhaber-Baker, “Techniques,” p. 98.

The purpose of raiding was to not simply to take things, but also to demonstrate dominance by creating fear and humiliation in both the subject population and one's principal enemy.... Wars almost invariably involved acts of violence and domination that produced no direct material benefit for the attackers, but which humiliated their enemy, resulting in the loss of prestige for the opposition and reinforcing bonds of solidarity within the attackers' own group.¹⁰⁴

The Normans also employed other means of violence. In their attacks, they employed a combination of threats, torture and beatings, all with the purpose of extorting money from the victims. In one incident, they tortured a certain Jean Peilhe's daughter by laying a table on top of her, and then two Normans sat on top of the table in order to make her tell them where her father kept his treasure chest. However, as she was unable to tell them this, they finally let her go and resolved to just plunder the house. This incident is very typical of the Normans' actions, and while it was in no way a pleasant experience for the Saintongeais, possibly only one of the Norman attacks had a deadly outcome. This also speaks for the overall veracity of the account, since an unalloyed attempt to vilify the Normans would certainly have resulted in more exaggeration and accounts of a general campaign of slaughter and merciless killing. In fact, the report contains many incidents where the Normans failed in their endeavours and had to flee. When all is said and done, however, it must be stressed that, until the threat to attack Saintes, the Normans always seem to have avoided direct armed confrontation with the authorities. Thus, the basic actions of the Normans in Saintonge do not differ from those of other malefactors and violent robbers, like the infamous Folville and Coterel gangs in England.¹⁰⁵

However, a particular hatred was reserved for any English and Bayonnais residing in Saintonge. A recurrent feature in the report is the Normans' active search for Englishmen. In the priory of Montier Neuf, the Normans looked for Robin Anglicus and other Englishmen. In the priory of Sainte-Gemme, six Normans entered with drawn swords and, if the prior refused to give up English fugitives, threatened they would damage the priory. In Saintes, the Normans attempted to break into the house of the wealthy English merchant Galterus Anglicus. The worst action of the Normans, and incidentally the one that brought the richest booty by far, was the attack on two Navarrese merchants going from La Rochelle

¹⁰⁴ Firnhaber-Baker, "Techniques," p. 97.

¹⁰⁵ Musson, *Crime*, pp. 75–79. See also Bellamy. "Coterel", and Stones "Folvilles".

to Bordeaux. The Normans mistakenly took these merchants for Bayonnais, and in Saint-Savinien, they killed and plundered the merchants of 8,000 florins. Then the Normans chopped them up, and one of them put the entrails of one of the merchants on the tip of his lance and paraded it through Saint-Savinien crying, "Who wants to buy entrails from Bayonne? I am selling",¹⁰⁶ while another Norman took the head of the other merchant and first chewed on the ear and then finally ripped it off and ate it. This happened, wrote Rostand, without the intervention of the local authorities. This act seems to have taken the character of a public execution (or perhaps rather lynching), since the display of entrails and head showed the disrespect and heinousness of the crimes of the deceased. Thus, it can be seen as a mock execution and as part of the Norman private enforcement of justice. Taken together, these accounts show the hatred which the Normans felt towards their adversaries, since they were either killed or intended to be killed, whereas the locals were "only" beaten and tortured. This demonstrates that the real target of the raids was the Anglo-Bayonnais, and as the final example will show, ultimately the king of England.

The culmination of the raids occurred when the Normans entered Saintes and allegedly declared several times in public that they would burn and destroy the town to punish the King of England, presumably for the lack of justice for the actions of the Anglo-Bayonnais against the Normans. The attack on the house of Galterus Anglicus resulted in a fight, in which some of the Normans were captured, interrogated and taken off to the castle of Saintes. This apparently led the Normans to mobilise 4,000 (sic!) armed Norman mariners and threaten to attack and burn Saintes.¹⁰⁷ Rostand promptly put the town on alert for a potential siege, and soon afterwards envoys of the Norman mariners and French royal officers showed up to ask for the release of their imprisoned comrades. Rostand—after having conferred with his council—refused, since the envoys did not have a mandate from the French king to demand the release. The Normans then proceeded to threaten to attack Rostand's properties, and he eventually let the Normans go because the French royal envoys promised to compel them make restitution for the damages against the English king's subjects. The infrequent arrest of Norman ships by English constables in

¹⁰⁶ "quis vult emere Trypes de Bayona ego vendam." TNA C 47/31/5/1.

¹⁰⁷ This was also reported to Philippe le Bel by his officers in Bordeaux. They added, furthermore, the accusation that the Normans had attacked the Ile d'Oléron during this campaign. ANF J 631, no. 8.

response to some of the Normans' depredations which resulted in the Normans making restitution, and the actions of Rostand's men against the Normans in Saintes, were the only times when the Anglo-Saintongeais authorities directly intervened.

Clearly this report attempted to exculpate Rostand from his failure to stop the Normans, and indeed for his release of them from custody. But apart from certain details, especially the alleged number of Normans threatening to attack Saintes, I consider it a credible account, given the number of named witnesses; the precise, detailed and infinitesimal amounts of valuables stolen; the details of wine poured out instead of being brought along; the relatively non-lethal nature of the assaults when a vilification campaign was obviously desirable; and finally, the disparity between the treatment of locals and the Anglo-Bayonnais. Furthermore, the report did not contain any self-promoting descriptions of Rostand himself, quite the contrary actually.

This would not be the last time Saintonge was visited by marauding mariners engaged in a maritime war with the Bayonnais. Between 1306 and 1309, Castilian mariners from Santander, Castro Urdiales and Laredo assembled a fleet and raided up the Charente River in a manner reminiscent of the Normans in 1293.¹⁰⁸ Furthermore, it seems as if during this raid, as with the Normans, the Castilians were especially on the look-out for any English, thus testifying to a particular hatred reserved for this group.

GUERRA

Thus, what I have described here is the way in which the Norman mariners fought their rivals in 1292–93. I propose that it should be understood as a war, or perhaps rather a *guerra*, in the same way as war was waged on land between kings and noblemen. Indeed, Philippe le Bel's envoys called the conflict a *guerra maritima*, and the peace treaties of both 1282 and 1318 between Bayonne and the Normans use that word, amongst others, to describe their conflicts.¹⁰⁹ In 1282, one of the words used for the conflict was *guerra*, both in the treaty itself and by the English authorities on the *dorse* (*De guerrarum materia in terra et mari*). In the truce of 1318, the conflict was called, amongst other things, *dissensionibus & discordiis*

¹⁰⁸ *Foedera 1307–1327*, p. 89.

¹⁰⁹ ANF J 631, no. 8.

guerrinis,¹¹⁰ and in 1331(?) Edward proposed a settlement of the *dissencion et guerre* between English and French mariners.¹¹¹ Likewise, in 1317 the Bayonnais described their conflict with the Castilians as a *guerra*.¹¹²

The notion *guerra* entails what Justine Firnhaber-Baker has described thus:

raiding in later medieval local war invariably involved surprise; the violence of armed men against unarmed people; and the destruction or appropriation of productive resources, like cattle, ploughs, and food. Repeatedly, the sources tell of sudden, unadvertised attacks, of peasants murdered or mutilated in their fields, of women raped, of vines and trees cut down, of tools destroyed or taken, and of livestock stolen. Not every raid was part of a larger war, but so consistently are these activities associated with *guerrae* that local warfare and serial raiding might almost be thought of as interchangeable terms for the same phenomenon.¹¹³

The Saintonge raid and the acts of piracy in 1292–93 fit this description perfectly. It is in this way I interpret the piracy of the Norman mariners, whose actions, seen in isolation, were acts of piracy, but the overall framework within which this occurred was a *guerra*, that is, a large scale conflict between two political and economic communities.

This shows that even the kings recognised that the ports waged wars despite the fact that they, unlike the French nobility, did not have an official right to do so, as described in the juriconsult and nobleman Philippe de Beaumanoir's *Coutumes de Beauvaisis*. In the chapter on war, Beaumanoir circumscribed the way war between nobles should be conducted. Numerous regulations served to limit the scope of the war and its legitimate participants. While Beaumanoir recognised the noblemen's right to settle their differences by arms, provided they declared this publicly and openly defied an adversary, he continuously stressed the possibility of settling the conflict in court and through the arbitration of the nobles' overlord, rather than by war.¹¹⁴ However, such (already severely regulated) warfare was the sole prerogative of the nobles. Beaumanoir explicitly denied the bourgeois and the commoners the right to wage war. Instead, he referred them to the courts of law for the settlement of conflicts.¹¹⁵ On a practical

¹¹⁰ *Foedera 1307–1327*, p. 376.

¹¹¹ *EMDP I*, 390.

¹¹² *Foedera 1307–1327*, p. 332.

¹¹³ Firnhaber-Baker, "Techniques," p. 94.

¹¹⁴ Philippe de Beaumanoir, *Coutumes de Beauvaisis*, ed. Amédée Salmon, 2 vols (Paris, 1899), II, pp. 354–365.

¹¹⁵ Beaumanoir, *Coutumes de Beauvaisis*, Articles 1671 and 1672, pp. 356–357.

level, however, this recourse does not seem to have been respected nor punishment meted out as a result.

The regulations of the *Coutumes de Beauvaisis* are also reflected in contemporary royal attempts to regulate and indeed prohibit noble *guerra* in France. By this time, the French kings had tried, for a long time and with little success, to prohibit the noble *guerrae*. Based on a reading of the sentences of the *Parlement de Paris*, Louis de Carbonnières has recently argued that the royal French prohibitions in the later Middle Ages were more successful than previously assumed; however, evidence from the thirteenth century and the first decades of the fourteenth century does not support this interpretation. While the *Parlement* condemned and prohibited *guerrae*, these wars still persisted, and the sentences do not seem to conform to a general royal policy or indeed even a successful effort in prohibiting noble wars.¹¹⁶ Thus, in 1296, 1304, 1311 and 1314 Philippe le Bel issued various prohibitions of *guerrae* while he was at war, and he prohibited tournaments and restricted the carrying of arms. However, his successors, Louis X, Philippe V and Philippe VI, were forced to moderate these prohibitions and give concessions to regions like Gascony to continue the practice of *guerra*, provided it did not take place when the king was at war.¹¹⁷ These prohibitions do not seem to have succeeded for any of these kings, including Philippe le Bel, and as Raymond Cazelles wrote, they seem essentially to have served as a royal claim to power and a bargaining chit in the royal expansion of power in the first decades of the fourteenth century. Thus, for all intents and purposes, the French kings do not seem to have had any success in this period (apart from with Normandy where the prohibition was, however, the creation of the Anglo-Norman and Angevin kings in the twelfth century)¹¹⁸ with actively carrying out such a prohibition of noble *guerra*. The one possible exception was perhaps when the French kings were at war themselves and consequently needed the military forces of the noblemen for his wars, as well as for peace to hold sway domestically while the kingdom itself was engaged in war with an external foe.¹¹⁹

¹¹⁶ Carbonnières, "Pouvoir royal," pp. 3–17. For a convincing refutation of this argument, see Firnhaber-Baker, "Seigneurial War," pp. 40–43.

¹¹⁷ *ORF* I, 56–58, 328–29, 392–94, 429–93, 538–40, 557–60, 564–71, 655–56, II, 61–63.

¹¹⁸ See Yver, *L'interdiction*.

¹¹⁹ Cazelles, "Reglementation royale," pp. 545–547, Gauvard, "Pouvoir de l'État," pp. 342–344.

The situation in England was a little different to that in France. Since the eleventh century, effectively noble wars had been prohibited in England, and the English nobility did not wage open wars amongst themselves. The situation was a bit different in some places, though, especially in the Welsh March where the Anglo-Norman kings had encountered difficulties in the Welsh highland. Consequently, the lords in this march were allowed to maintain private armies, officially to protect the kingdom but the privileges and rights granted to these lords meant that in practice they also waged wars amongst themselves—just like their French counterparts (See chapter 6 for a treatment of the marches of England and France). However, the English kings also tried to restrict these wars, and in 1290–92 Edward I intervened in a war between Earl Gilbert of Clare of Gloucester and Earl Humphrey de Bohun of Hereford. These marcher lords were fighting over Morlais Castle, among others, in a region claimed by both. They were determined to settle the dispute by arms. Edward, however, intervened and prohibited the war. When these marcher lords did not adhere to the prohibition, because they felt this was a violation of their rights, Edward, by legal action and imprisonment of the earls, forced them to accept that he could prohibit war amongst the marchers, and that royal orders took precedent over the laws of the march and the privileges of the nobles. In the following years Edward came down hard on other defiant marcher lords and asserted ultimate royal judicial supremacy over Wales.¹²⁰

Nevertheless, the studies conducted by Stones, Bellamy and Hanawalt show that while open warfare between nobles in England was prohibited in principle, in practice the English nobility did not refrain from using violence against their rivals and to achieve their aims. However, since open war was prohibited, they had recourse to armed gangs and thus waged wars by proxy. While the nobles were not always directly implicated in these actions, it seems that everybody was aware of their involvement and the use of proxies. Nevertheless, the members of these gangs and their employers were rarely punished.¹²¹ Thus, while the English kings initially seem better equipped to and more successful in stopping these noble

¹²⁰ Morris, J.E., *The Welsh Wars of Edward I* (Oxford, 1901), pp. 220–239, Altschul, Michael, *A Baronial Family in Medieval England: The Clares, 1217–1314*, (Baltimore, 1965), pp. 145–154. Davies, R.R., *Lordship and Society in the March of Wales, 1282–1400* (Oxford, 1978), pp. 259–269.

¹²¹ See, for instance, Hanawalt, Barbara, "Fur-collar crime: The pattern of crime among the fourteenth-century English nobility," *Journal of Social History*, 8 (1975), 1–17.

guerrae, the success of these initiatives were wholly dependent on the strength of the king. Even a strong king like Edward I does not seem to have been able to quell this completely, and his actions in the Hereford-Gloucester dispute seem to have been more a statement of his sovereign power over the English nobility than an actual pursuit of a royal policy of zero-tolerance of noble violent conflict.¹²² It seems that the English kings had to tolerate noble feuds as long as they were not waged as open warfare. Accordingly, while the kings did not like this “private” use of collective violence and prohibited it, in practice they had to accept a certain leeway for nobles to settle their conflicts with violence. But as Philippe de Beaumanoir stressed, this acceptance was not juridically extended to commoners.

Nevertheless, the claim to self-defence by the Portsmen and the clandestine operations of the Normans in Saintonge seem to denote that while the Portsmen and the Normans found that their actions were justified from their point of view, they knew that they were acting against the royal prohibitions and that their actions were not legitimate in a wider sense.

The components in these *guerrae* resembles what other historians have termed as feud. On the term *guerra*, Paul Hyams notes that:

Old French *guere* . . . registers violence imminent or already begun. Stephen White’s analysis of its usage in certain *chansons de geste* of the twelfth and early thirteenth centuries usefully begins by noting that every such act assumes wrongs to justify the action and stories by which each side justifies its own position. The semantic field covered by *guere* is not quite as clear as a philologist might wish. It seems to cover conflicts not covered by Latin *bellum*, which essentially denotes the kinds of war started by a recognized authority like king or pope that can be justified along the lines of just war theories. In the twelfth-century schools, and the courts they influenced, these were beginning to be conceptualized as public wars. In consequence, the modern Continental secondary literature describes as private war most situations where Anglophone scholars habitually talk of feud.¹²³

There is nothing odd in the fact that mariners waged wars akin to those of the nobles: many mariners cum merchants were rich people with control of ample resources; the mariners already seem organised and to a certain degree endowed with an *esprit de corps*; they ran a low risk of

¹²² Davies, *Lordship and Society*, pp. 254–269.

¹²³ Hyams, Paul, “Was there really such a thing as feud in the High Middle Ages?,” in S.A. Throop et al., eds, *Vengeance in the Middle Ages* (Farnham & Burlington, 2010), p. 166. A somewhat similar view is expressed in White, Stephen D., “Un imaginaire faidal,” in D. Barthélemy et al., eds, *La Vengeance, 400–1200* (Rome, 2006), pp. 175–198.

getting caught and punished (see chapter 8); and they were probably motivated by a sense of honour and an interest in defence of their common economic interests. Kaeuper's studies support this interpretation. He shows that while chivalry and the use of violence to the protection of one's honour were of central importance to the aristocracy, the upper ranks of townsmen aped this chivalric code. This bourgeois knightliness was primarily found in the French kingdom due to the greater measure of independence of towns and bourgeois from royal control, yet it was also present in some English towns. In France at least, the bourgeois claimed the rights of the chivalric classes to wage war.¹²⁴ Kaeuper writes:

these towns were also collective lordships which entered into private war and took vengeance in the best style of the day. Knightly society often wished to increase its social distance from the bourgeoisie and chose to measure and emphasize that distance by elaborations of the code of chivalry. Yet the distance can easily be exaggerated and the important point for thinking about the issue of public order is that a code of honour recognizable to all stretched across the ranks of privileged society; whatever refinements ambitious townsmen might lack in the eyes of their knightly betters, they shared with them a keen appreciation of the defence of honour through prowess.¹²⁵

While historians like Hyams, Howard Kaminsky and Hilla Zmora claims that the *guerra* or private wars can be characterised as "feuds",¹²⁶ Firnhaber-Baker distinguishes between the two. She writes:

The sources usually use the same word for seigneurial wars that they do for royal wars: *guerrae*. These wars, fought by the hereditary nobility, ecclesiastical lords, and even municipalities, generally arose over claims to lordship: conflicts over inheritance, over the possession of a castle or, over the marriage of an heiress, over the right to execute justice or to collect taxes, and so forth. They were not 'feuds' in the sense of cyclical, vindictory violence waged by kin groups, but rather political struggles pursued through military means. Vengeance entered the picture in that one had to preserve one's rights and save face if attacked, and no doubt there was emotional satisfaction in defeating one's opponent and getting one's way.¹²⁷

¹²⁴ Kaeuper, *War*, pp. 189–190 and 246.

¹²⁵ Kaeuper, *War*, p. 192.

¹²⁶ Zmora, Hilla, *State and Nobility in Early Modern Germany* (Cambridge, 1997), pp. 14–15, Kaminsky, Howard, "The noble feud in the later Middle Ages", *Past and Present*, 174 (2002), 55–56.

¹²⁷ Firnhaber-Baker, "Techniques," p. 91. See also Firnhaber-Baker, "Seigneurial War," pp. 41–42, for a critique of Gauvard's focus on wounded honour as a legitimate source for war and violence.

Thus, what Firnhaber-Baker stresses here is that the *guerra* was initially more concerned with material values than insults and emotional damages, even though these of course also played a role. The same is detectable in the mariners' wars. While emotions of anger and hatred must certainly also have been present, the immediate cause for hostility in the sources appears to be material, not emotional. In the end, while the discussion of what exactly constitutes a feud is beyond the scope of this book,¹²⁸ I find it useful to distinguish on a theoretical level between conflicts motivated by recovery or defence of material values and those motivated by insults to one's honour.

One factor, however, separated the maritime wars from those of the terrestrial nobility, clergy and towns, namely the centrality of the sea and the waterways for the combatants' living. Gonçal López Nadal has studied ports engaged in piracy between the sixteenth and the eighteenth centuries and has made some interesting observations which also seem applicable to medieval ports. He notes that alternative methods of commerce—namely trade in neutral vessels, smuggling and corsairing¹²⁹—were not subversive strategies employed in times of need by mariners or merchants, but that they were simply a cheap and convenient (if alternative) way of conducting their traditional activity, trade.¹³⁰ However, he adds that not all ports were engaged in, nor had any interest in, corsairing and piracy. Nadal stresses that corsairing appeared “mainly in societies that found themselves thwarted by an unchallengeable commercial competitor. Not surprisingly, the ports that were most prone to turn to force were the strictly second-rate trading centers, while major trading centers suffered the most from raiding”.¹³¹ This idea seems to fit the medieval ports, as a disproportionate number of pirates came from “minor” ports engaged primarily in freight such as the Cinque Ports, the Norman ports and Bayonne.¹³² This notion seems supported by the similarity in the Middle Ages and the early modern period in the relationship between ports and pirates, and Nadal notes that the pirate ports derived profit from the mariners' activities, and accordingly they were defended and honoured by their fellow-citizens.¹³³

¹²⁸ Indeed, the various articles in Netterstrøm, Jeppe B. and Bjørn Poulsen, eds, *Feud in Medieval and Early Modern Europe* demonstrate that no clear and coherent definition of feud exists.

¹²⁹ Nadal seems to use this term to describe acts of piracy as well as privateering.

¹³⁰ Nadal, “Corsaring,” p. 127.

¹³¹ Nadal, “Corsaring,” p. 129.

¹³² See Vale, *Origins*, pp. 149–150, for Bayonne.

¹³³ Nadal, “Corsaring,” p. 130.

This also seems to be the case in the few instances when we have access to records of medieval pirates (for instance the Alards).

In conclusion, the maritime wars of the mariners from 1280–1330 resembled the noble *guerra* in its form, objectives and symbols. For all intents and purposes, it was a war, but the war was fought with methods which on the surface resembled merely violent robbery at sea. However, contrary to the singular instances of piracy, these wars waged by serial piracies and raids were motivated not only by gain but also by vengeance and private justice.

CHAPTER FIVE

THE LAWS OF THE SEA AND THE PRINCIPLES OF REPRISAL

According to the Roman *Corpus Juris*, the sea was a *res nullius* or a *nullius territorium* by natural law. This meant that it was free from any claims of ownership, and instead belonged to all.¹ However, even though much medieval law was founded on the principles of the *Corpus Juris*, it did not mean that actions taken at sea took place in a judicial void and by default were permissible. How actions at sea were perceived judicially is, however, a delicate question. In this chapter, I shall analyse what laws regulated behaviour at sea, and how they failed to address the issues of piracy and reprisals. These reprisals were the common manner in which to justify piracy, and they took place in a juridical grey area where the king, on an *ad hoc* basis and strongly influenced by foreign as well as domestic policies of the realm, decided what reprisals should be authorised by him and when. This authorisation was expressed in two types of government-authorized seizures: arrest and marque. An analysis of these aspects is important, for it expresses the peculiar legal status of piracy in the Middle Ages and provides a further framework for the understanding of the status of piracy in an era characterised by weak central governments.

THE LAW MERCHANT

Many historians have made assumptions about the laws of the sea and how maritime, especially commercial, life was regulated. It is a matter of debate what exactly constituted the law of the sea and commercial law in regard to piracy. The fundamental problem is whether piracy constituted a special kind of crime, separate from crimes of theft and violence committed on land, or whether the place of the crime was irrelevant in regard to the law. Marsden claimed that common law was inadequate to judge cases of piracy, since the jurors were seldom witnesses to the

¹ *Corpus Juris Civilis, Dig. I, viii. 2*: “naturali iure omnium communia sunt illa: aer, aqua profluens, et mare, et per hoc litora maris”, cited in *EMDP*, I, 369, n. 34. Cheyette, “Sovereign,” p. 53, Heller-Roazen, *Enemy of All*, pp. 57 and 61–62, Ward, *Medieval Shipmaster*, p. 9.

crime and since one often ran the risk that they were neighbours of or in some other way affiliated with the offenders. Consequently, the jurors were more likely to sympathise than to convict the indicted. Accordingly, the laws on piracy, reprisal and war were vague, and the situation at sea tended *de facto* to be characterised by lawlessness.² The historians have generally organised their studies of the legal status of the sea in the early fourteenth century around two legal institutions of maritime law, that is, the merchants' law, or *Lex Mercatoria* which mainly dealt with commercial transactions, and the *Rôles d'Oléron*, which mostly was occupied with freight and the relationship between shipmaster, crew and merchants.

One of the first obstacles that one encounters when studying piracy cases in the English legal and diplomatic records is that the plaintiffs or their lawyers argued that the case should be settled according to the Law Merchant, the laws of the sea, or the laws of Oléron. These laws are evoked as a matter of fact, and no details are given as to their contents or how they should be applied.³ In *The History of English Law* from 1898, Pollock and Maitland wrote that from the thirteenth century the *Lex Mercatoria* as a law code stood apart from the common law. It was a special law for merchants and commercial transactions and therefore did not concern itself with issues which fell under criminal law. Apparently, the merchants were familiar with the general tenets of this law, and it was used during markets and fairs where the merchants assembled. Furthermore, this law was not an exclusively English law. Rather, it was a *ius gentium* known to merchants throughout Christendom. However, Pollock and Maitland stressed that the Law Merchant was less a law for a class of men, but rather a law for specific kinds of transactions.⁴ This sums up the basics of Law Merchant, but recently Robin Ward has elaborated somewhat on the contents and development of this law. He stresses that Law Merchant had developed from the Roman *Corpus Juris* and was international in its nature. As such, it was well suited for adjudication in maritime quarrels. Ward claims that problems between mariners which arose on board ships and between one ship and another were subject to maritime law, which in some way was related to Law Merchant (probably to the *Rôles d'Oléron*, even though Ward does not state this specifically). On the whole, Ward

² Marsden, Reginald G., "The vice-admirals of the coast," *English Historical Review*, 22 (1907), 468.

³ See, for example, *CPR 1301–1307*, p. 286.

⁴ Pollock, F. and Maitland, F.W., *The History of English Law*, 2nd edn., 2 vols. (Cambridge, 1968), I, 467.

claims that in England very few legal decisions in maritime cases ran contrary to the precepts of common law, Law Merchant or maritime laws.⁵ Ward explains the connection between Law Merchant and maritime laws thus:

all types of plea could be heard including trespass, debt and contract, but not those concerning land nor serious crimes which were reserved for royal justices. The law the courts administered was derived from the customs of English and continental merchants and in the fourteenth century was still relatively unevolved. It reflected enough of the continental *lex mercatoria* to be acceptable to both native and foreign litigants, stood apart from common law, was specifically for mercantile transactions rather than for merchants... Although the law merchant was of such importance to merchants and appears to have had a considerable effect on the law practised in local courts, direct reference to it by name is strangely absent from borough customs.⁶

While this seems to be a fairly reliable portrayal at first glance, it is actually rather problematic. First of all, at least for the thirteenth and the first part of the fourteenth century, our knowledge of local courts and their decisions concerning matters at sea is very limited. Ward in fact exacerbates the confusion by referring to a case in Bristol in 1351, where a discussion of whether a shipmaster was responsible for the actions of his crew took place. Unfortunately is not clear whether the verdict was passed in accordance with maritime law or the law of the country. Furthermore, the case was appealed, but its conclusion is unknown, which further compounds the confusion over what law was applied in local courts in quarrels involving mariners.⁷ Concerning piracy, at one point Ward assumes that the judgements of the English courts followed the "law and customs of Oleron and similarly the law merchant. Both were seen as species of *jus gentium* available across frontiers".⁸ However, rather puzzlingly, Ward claims elsewhere that there was a noticeable absence of the mention of piracy in the maritime laws, and he argues that felonies presumably were dealt with ashore. In other words, felonies like piracy were perceived of as not being any different to crimes on land, and they were dealt with thus.⁹ This contradiction admirably sums up the historiographical problem of determining how piracy was dealt with in the courts.

⁵ Ward, *Medieval Shipmaster*, p. 9.

⁶ Ward, *Medieval Shipmaster*, p. 16.

⁷ Ward, *Medieval Shipmaster*, p. 18.

⁸ Ward, *Medieval Shipmaster*, p. 16.

⁹ Ward, *Medieval Shipmaster*, p. 23.

THE *RÔLES D'OLÉRON*

The specific problem with the laws of the sea up to at least the middle of the fourteenth century is that there really is only one known law-code on maritime matters. This law is the *Rôles d'Oléron*, which seem to have been accepted and followed by all mariners in Northern Europe.¹⁰ The *Rôles* are linguistically dated to around 1200 and were reputedly formulated by King Richard the Lionheart,¹¹ even though the veracity of this statement is controversial and uncertain to say the least.¹² Furthermore, Ward and other historians assume an origin for the law in the Mediterranean sea laws, the *Lex Rhodia*, and the *Consolate del Mare*. The earliest two extant versions of the *Rôles* are, however, from manuscripts from 1315 (the *Liber Horn* and the *Liber Memorandum*), and both Ward and Karl-Friedrich Krieger assume that these are copies, directly or indirectly of an Anglo-Norman original.¹³ However, the possibility remains that either the *Rôles* are not that old, or, more likely, that they were a product of the francophone maritime communities of the thirteenth century, and that over time maritime practice manifested in the twenty-four articles of the *Rôles d'Oléron*, thus making them more of a dynamic document of customary law.¹⁴ It is clear that from the outset the *Rôles* must have been primarily concerned with the wine trade, given the number of references to this in the articles of the law. The articles in the extant version also support the notion of the law not being confined to the Anglo-French Atlantic, since numerous articles refer to England, Flanders, Brittany, Normandy and Scotland and the mariners from these areas.¹⁵

In *Ursprung und Wurzeln der Rôles d'Oléron*, Krieger discussed why the *Rôles* were created and why they were named after the island of Oléron.

¹⁰ Printed in Ward, *Medieval Shipmaster*, pp. 183–205, *The Black Book of the Admiralty*, in Travers Twiss, ed., 4 vols. (London, 1965), I, 89–133, *Collection des lois maritimes*, in Jean Marie Pardessus, ed., 6 vols. (Paris, 1828–45), I, 323–354.

¹¹ Runyan and Ward date the *Rôles d'Oléron* to around 1200 based on the language. Ward, *Medieval Shipmaster*, p. 20, Runyan, Timothy J., “The Rolls of Oleron and the Admiralty Court in fourteenth century England,” *The American Journal of Legal History*, 19 (1975), 98.

¹² See Frankot, Edda, *Medieval Maritime Law and its Practice in the Towns of Northern Europe: A Comparison by the Example of Shipwreck, Jettison and Ship Collision* (Unpublished PhD. thesis at the University of Aberdeen, 2004), p. 20.

¹³ Ward, *Medieval Shipmaster*, pp. 20–22.

¹⁴ Krieger (and Frankot) assumes it was written down around 1286. Krieger, *Ursprung*, p. 71, Frankot, *Medieval Maritime Law*, p. 20.

¹⁵ Krieger, *Ursprung*, pp. 23–30.

While Ward assumes that the *Rôles* were named after the island because its magistrates were presumably reputed to be reliable jurists,¹⁶ Krieger more prudently believed that the *Rôles* perhaps initially referred to an Aquitainian maritime association rather than specifically to the island. Furthermore, he refused to accept a royal English origin for the text, based on, amongst other things, the rather late official English royal approval of the law in 1351. Instead, Krieger assumed its creation was based on the different merchants' and mariners' guilds of northwestern Europe in the thirteenth century. Despite being under different kings, these guilds rallied together when their privileges were threatened by, for instance, taxes on the wine trade. However, whether the *Rôles* were first formulated by one trading community and then adopted by the others, or whether it was a collective custom created by the different communities in unison, is unknown.¹⁷ This perception of mariners and merchants banding together against royal aggression and pretensions is tempting and seems more credible than the creation of the *Rôles* by the English king, especially since the king was barely mentioned in them. Furthermore, it is worth noting that, in regard to maritime conflict, Krieger focused more on the Anglo-French royal conflicts than on those between the maritime communities. He essentially saw an opposition between the mariners' interests and those of the kings. This means that all conflict was handled and regulated by the kings, and that the mariners and merchants were only interested in and concerned with peaceful trade.

This is the natural consequence of the contents of the *Rôles* in regard to conflicts. Piracy and maritime war are simply not mentioned in the law. Instead, the *Rôles* were concerned with the relationship between shipmaster and crew, and between the shipmaster and the merchants who either owned or just freighted their goods on board the ships. Dorothy Gardiner assumed that this was because ordinances concerning maritime conflict were only written up in emergencies and thus were related to individual cases of conflict and were not in any way universal principles. This was because the kings lacked a permanent naval force and thus royal maritime warfare was based on the contributions of individual ports and occurred in distinctive and unique circumstances for each war.¹⁸ Thus, Krieger implicitly followed Gardiner's initial argument that kings made

¹⁶ Ward, *Medieval Shipmasters*, p. 24.

¹⁷ Krieger, *Ursprung*, pp. 112–119.

¹⁸ Gardiner, Dorothy A., "The history of belligerent rights on the high seas in the fourteenth century," *The Law Quarterly Review*, 48 (1932), 521.

war and mariners sailed and traded. However, as we saw in the last chapters, mariners were more than willing to take up arms to realize personal and collective gains.

The issue of the *Rôles d'Oléron's* application to conflict has been further complicated by the different names of the *Rôles d'Oléron* in the sources and the historiography. Thus, one can find references to maritime law as *rôles*, *ley*, *lois*, *lex*, *jugemens*, *consuetudines* and *costumes*—all of Oléron. While these may well be different versions of the same text with minor variations, none of the existing versions deal with conflict at sea. However, some of the legal and diplomatic records which use the above-mentioned variations of the name “d'Oléron” have references to the *Rôles'* application during maritime war and piracy. Unfortunately, in these references, it is rather unclear what is meant. Krieger tried to deduce what the *Rôles* covered and what should be assumed covered by other maritime and mercantile laws called “d'Oléron”, but of which we do not know the exact contents. He assumed that the *Rôles* should be seen as a completion of the *Lex Mercatoria*, but nevertheless a law apart from those dealing with reprisals.¹⁹ He thus supposed three different yet complementary sets of laws for the sea, that is, *Lex Mercatoria*, the *Rôles d'Oléron* and a set of rules concerning reprisal. On the right of reprisal, Krieger assumed that the *Rôles d'Oléron* was the commonly agreed law for the regulation of maritime traffic. In this regard, the letters of marque served as the realisation of outstanding legal claims. However, marque was only to be seen as a supplement to the law, which permitted the realisation of a claim in a given case.²⁰ Thus, the rules of reprisal should be seen as the completion of the *Rôles* in regard to conflict and piracy jurisdiction.

The English *Fasciculus de superioritate maris* from 1339,²¹ which refers to King Richard the Lionheart as the giver of the *Rôles d'Oléron* and the laws of reprisal in *la ley Olyroun*, poses a particular problem for Krieger. Contrary to the editor of the source, Pardessus, Krieger refused to accept that King Richard formulated this law. He argued that the *Fasciculus* should instead be viewed as part of the Hundred Years' War and there-

¹⁹ Krieger, *Ursprung*, p. 35.

²⁰ “Während die *Rôles d'Oléron* das zwischen den am Seeverkehr Beteiligten geltende Recht feststellen, dienen die ‘letters de marque’ der internationalen Durchsetzung von Rechtsansprüchen.... Im Verhältnis zu den *Rôles d'Oléron* konnte demnach das Recht der ‘marque’ nur als eine Ergänzung herangezogen werden, soweit die Verwirklichung eines nach dem Seerecht festgestellten Anspruches in Frage stand.” Krieger, *Ursprung*, p. 36.

²¹ Pardessus, *Collection des lois*, I, 289.

fore had nothing to do with the origin of the *Rôles*. It was an invention to enhance English independence from the French Crown. Krieger writes that the *ley Olyroun* referred to in the *Fasciculus* concerned the protection of the peace and justice between people sailing the English Channel and was formulated as a promise to protect shipping, to punish pirates and to assure restitution to the victims. However, as Krieger stressed, the *Rôles d'Oléron* was a civil law, not a criminal law. Thus, in Krieger's opinion, the origin of the *Fasciculus* of 1339 was rather a Gascon petition of 1331. While Krieger assumed that the *ley Olyroun* was different from the *Rôles d'Oléron*, his view is backed up only by a mention of this in a Bayonnais petition from 1337–39, which indicates that the Bayonnais' reprisals and marque were apparently in accordance with the *ley Olyroun*. Krieger therefore concluded that the *ley Olyroun* which mentioned a direct relationship between this law and reprisals/marque, the *Rôles d'Oléron* and *Ley de Olyroun* could not be the same law.²² In support of Krieger's argument is that the conflict regulation mentioned in the *Fasciculus* is not covered by any of the known versions of the *Rôles*, and it is possible that the Bayonnais were applying a local, Gascon understanding of conflicts in general to conflict at sea (see chapter 6). In any case, Krieger and Gardiner acknowledged that reprisals were a part of the judicial maritime system and that they were congruent with the *Rôles* in the sense that both were commonly acknowledged institutions by the seafarers. Nonetheless, they could not be seen as a law per se, since they invariably were "international" and thus concerned the safety of the kingdoms and diplomacy rather the interests of the mariners and merchants. Ward, however, argues against the notion that reprisals should be perceived as a part of the official judicial system of maritime law. Nevertheless, he provides a good reason for why reprisals, whether legitimate or not, were a necessary recourse in maritime and commercial transactions. This recourse rested on a deficiency in Law Merchant. Ward writes:

In common law, proof of purchase in good faith merely relieved the innocent third party from the possibility of punishment for theft, and the goods had to be returned to the true owner without restoration of the purchase money. In the law merchant, with the interests of commerce in mind, the true owner had to refund the purchase price to the bona fide purchaser on the return of the stolen goods, in effect a repurchase by the owner of his own property.²³

²² Krieger, *Ursprung*, pp. 43–46.

²³ Ward, *Medieval Shipmaster*, pp. 16–17.

In other words, the merchant was liable to suffer a loss because of piracy whether he won the trial or not. In order to cover his losses, he thus had to rely on other means, and the anger and frustration that this system produced must have been a powerful urge to commit reprisals and indeed to wage war amongst ports.

In the end, we must conclude with Klaus Friedland that: "In truth, the Rôles d'Oléron are essentially concerned with ship law—the security of the ship, crew and cargo. Piracy does not figure in the *Rôles*. Piracy only became criminalised much later when it began to be regarded as a threat to the maritime community".²⁴ While merchants appealed to Law Merchant and maritime law for restitution, or even to some form of the Oléron law for goods stolen by pirates, quite often the actual measure which was applied was arrest and *marque* carried out either by the royal authorities or by the merchants and their compatriots themselves. I will now turn to an analysis of the principles of reprisal in the Middle Ages.

THE PRINCIPLES OF REPRISAL

In the legal and diplomatic records, reprisal was described by the following words in Latin: *Marca, Represalia, Pignorationes, Pignora, Queminae, Cambium et Laudes* and *Gagium*, and in French, *Marque, Représailles* and *Laud*.²⁵ According to DuCange's *Glossarium Mediae et infimae latinitatis*, *represalium* was the right to recover your belonging from a person who had taken them from you by force. Furthermore, DuCange stressed that reprisal was the power to seize goods for injustices and damages not just from a debtor from a foreign country but also from his countrymen.²⁶

Here it is clear that reprisals could be against plunderers and debtors. DuCange also noted the synonymy between *represalium* and *pignoratio*

²⁴ Friedland, Klaus, "Maritime law and piracy: Advantages and inconveniences of shipping in the Baltic," in MacInnes et al., eds, *Ships, Guns and Bibles in the North Sea and the Baltic States, c. 1350–c. 1700* (Phantassie, 2000), p. 32.

²⁵ Mas Latrie, René de, "Du droit de marque ou droit de représailles au Moyen Âge," *Bibliothèque de l'École des Chartes*, 6^e series, II (1866), 537.

²⁶ "Jus recipiendi, quod cuipiam per vim ablatum fuerit" and "Auctor Breviloqui: Represalia est potestas pignerandi contra quemlibet de terra debitoris data creditori pro injuriis et damnis, Idem: Represalia dicuntur, quando aliquis oriundus de una terra spoliator, vel damnificatur ab alio oriundo ab alia terra, vel etiam si non debitum solverit ei; tunc enim datur potestas isti spoliator, quod ei satisfaciatur contra quemlibet in terra ille, unde est spoliator vel debitor." DuCange, *Glossarium mediae et infimae latinitatis*, 6 vols. (Paris, 1840–1846), V, 713.

(seizure). For instance, he referred to Philippe le Bel's initiatives in this direction. According to the French king, seizure as described above was the means by which a prince could obtain justice for a subject who had been denied his right. The prince could concede to the subject the right to take by force anything from the subject of another prince to obtain restitution for an injustice or a robbery which he had suffered.²⁷ While the kings allowed this practice, the Church officially condemned it and threatened excommunication of those conceding *reprensalias sive marchas* against clergy and their goods. For instance, in 1314 the Council of Paris issued a prohibition of "Pignorationes, quas vulgaris elocutio repræsalias nominat" (pledges which in vulgar parlance are called reprisals), as it ran counter to law and natural equity.²⁸ The word *prisia* (and *contraprisia*), which was the act of carrying out a reprisal, was defined by DuCange as an enforcement of a debt or a tax, where the officers of a lord took (temporary) custody of goods or persons.²⁹ DuCange defined *marc(h)a* with almost the same words as *pignoratio*, that is, a denial of justice whereupon the prince could concede a *marque* to the aggrieved so that by personal means he could obtain justice.³⁰ Interestingly, another of the synonyms for reprisals, *gagium*, was explained as *pignus*, that is, a pledge and a *fidejussio*. Thus, all these words in one way or another entailed taking back property illegitimately seized by another person, including cases of debt.

The main principle behind justified attacks on and seizure of property at sea was collectively called reprisals. When people were subject to piracy or any other seizure of their ships and goods (or claimed to have been the victim of such), they could resort to private action in order to recuperate their goods or cover their losses by attacks on the seizers' countrymen. The object of reprisals was to obtain compensation for injuries or losses suffered by people who could not be brought to justice. They were in principle only licensed when legal redress for various reasons could not be obtained, and they could be levied on account of injuries to the right of an individual, to obtain restitution for spoliation, for imprisonment and for outstanding debts. The reprisal levied permitted the aggrieved, by his

²⁷ "Facultas a Principe subdito cui jus denegatum est, concessa sibi jus faciendi atque Pignori capiendi etiam per vim quicquid poterit ab alterius Principis subdito, a quo injuria affectum se vel spoliatum queritur." DuCange, *Glossarium*, V, 251–252.

²⁸ DuCange, *Glossarium*, V, 251–252.

²⁹ "Exactio, malatolta, jus capiendi ex subditis ea quæ domino sunt necessaria; item sub custodies manum positio, 2. Captura, Prise: item Jus reos capiendi et in carcerem conjiendi." DuCange, *Glossarium*, V, 451–452.

³⁰ DuCange, *Glossarium*, VI, 279–280.

own means, to recover his goods or persons to the value of the loss he had suffered. In relation to theories of just war, reprisal permitted the taking of spoil, but this spoil was to be seen as repayment of an amount outstanding to the aggrieved and thus not as regular spoils of war.³¹ While in principle it seems that reprisals were only legitimate if conceded by a prince, *de facto*, the mariners often seemed to take matters into their own hands rather than wait for royal authorisation.

It is necessary to stress an important distinction here, namely the one between reprisal and retaliation. Today we see these two concepts as more or less synonymous, but from a legal point of view they are quite distinct. As the name suggests, reprisal is the taking back of something, normally some sort of property, unjustly taken from the person without payment. Reprisal is thus remedial and a compensation for a loss unjustly incurred. Retaliation, however, transcends the materiality of reprisal in that it is an aggressive response to a wrong suffered, whether materially or emotionally. It is at its core a vindictive infliction onto a foe of the same damage one has suffered.³² In the *Oxford English Dictionary*, retaliation is defined as a retributive form of justice whereby an offender's punishment resembles the offence committed in kind and degree.³³ However, a core element of both reprisal and retaliation was the concept of collective liability. An illustrative example of this can be seen in Marc Bloch's *La Société Féodale*. In a trial at the *Parlement de Paris* in 1260, the knight Louis Defeux demanded compensation from the squire Thomas d'Ouzouer for having wounded him. The accused did not deny that he had wounded Louis, but he explained that he himself sometime before had been attacked by Louis' nephew. Thomas thus defended himself by stating that he had done nothing wrong since he—in accordance with the royal decrees of a period of fair warning—had waited forty days before carrying out his vengeance. Louis replied that he was not liable for the actions of his nephew, but with no luck. The court decided that the act of an individual made his relatives liable for his actions.³⁴

Thus, the reprisal or retaliation was permitted not only against the transgressor, but also against his family, friends and associates. In this

³¹ Keen, *Laws of War*, p. 218.

³² Neff, Stephen C., *War and the Laws of Nations* (Cambridge, 2008), p. 123.

³³ Oxford English Dictionary http://dictionary.oed.com/cgi/entry/50204656?single=1&query_type=word&queryword=retaliation&first=1&max_to_show=10. Accessed on 25 February 2011.

³⁴ *Olim*, I, 472–73, *ORF*, I, 56–58, *Actes du Parlement*, I, 38, no. 436, Bloch, Marc, *La société féodale* (Paris, 1994), pp. 187–188.

regard, the maritime war between the Anglo-Bayonnais and the Normans was retaliatory. However, there was a difference between war and reprisals/retaliation. Keen presents the difference thus:

Theoretically justice was claimed for such reprisals, on the ground that injured and innocent both were subject to the judge who had refused redress, and so all were party to the crime. The case with feudal war was a little different. It was levied for the same end, to protect the right of an injured individual, but for defiance only entitled the defier to take revenge on his opponent personally, or on his relatives and direct dependents.³⁵

Reprisals were thus not arbitrary or anarchic but rather followed a sort of regulated custom or convention for conflict and dispute settlement. For maritime offences, the procedure was usually the following: If a merchant or a shipmaster was attacked and plundered by foreign mariners, he would first complain locally in the nearest port, as for instance Bartholomew de Welle did. If nothing came of this, or if the accused could not be located and apprehended, the victim would appeal to his king to gain restitution by having him advance the case to the foreign king and his court. If the victim's king—after adequate inquiries in the case—chose to plead it with the foreign king (or possibly port authorities) and demand restitution for the aggrieved, the latter would consider the case, hold his own inquiries, and report back to the victim's king. Often a case like this could take years if not decades before any restitution or final refusal had been made, and stalling the cases seems to have been the preferred royal tactic in these matters. In time, the king of the aggrieved would often threaten to and ultimately carry out arrest of the opposing king's merchants' goods in his ports up to the lost value, perhaps augmented by the expenses that the victim had suffered by pursuing the case (but no more), to be held until the foreign king made restitution. Alternatively, the aggrieved could appeal for a letter of marque and if his plea was accepted, the letter would authorise him personally or with the help of royal officers, to confiscate goods from the foreign king's merchants and mariners. However, even the concession of arrest or letters of marque could take years, and all other means of restitution and recovery of the lost goods had to be tried before reprisals were authorised. If arrest was initiated by the royal officers, the arrested goods were put under custody of the royal agents until a final settlement had been reached, either by the foreign ruler granting restitution or by the victim's ruler deciding to deliver the arrested goods to the

³⁵ Keen, *Laws of War*, p. 230.

aggrieved and then consider the case closed. What could happen, however, was that the foreign ruler would issue counter-reprisals and arrests for his innocent subjects, to the effect of a drawn-out series of arrests and counter-arrest until some larger settlement where all outstanding claims and counter-claims were solved, or possibly by permitting the victims free process in the pirate's homeland. The historians usually claim that only arrest of goods was permitted, not people, and that the use of force was in theory prohibited,³⁶ yet how arrests and reprisals were expected to happen in practice without the application of some sort of force is unclear. Indeed, contrary to the principles presented by the historians, the English "keeper of documents", Ellis Joneston, asserted that recourse to the detaining of people was a recognized and acceptable (though lamentable) practice in reprisal and marque procedures.³⁷ The same is amply present in the complaints over piracy where the arrest (actually hostage-taking to guarantee restitution) was a common practice.³⁸

It was only the ruler in his capacity as prince with no superior who could issue arrest and letters of marque, since the laws which permitted reprisals were the same as those permitting public war, namely the *ius divinum* and *ius gentium*, which were the only war-actions permitting the taking of spoils. Some mariners and merchants like the Normans, the Portsmen or the Bayonnais found this unacceptable and thus took matters into their own hands, as is exemplified in 1292–93. Such a reprisal over a perceived wrong would most often cause the innocent compatriots of the alleged pirates/the accused to desire reprisal of their own against the initial reprisal-takers or their compatriots, and events could quickly escalate if the kings or other higher authorities did not intervene to mediate in the conflict. So, essentially, reprisal was based on group liability and semi-private revenge, and the transition from reprisal to retaliation was a sliding one.³⁹

³⁶ Timbal, Pierre-Clément, "Les lettres de marque dans le droit de la France médiévale," *Recueils de la Société Jean Bodin*, X, L'Étranger, vol. II (Bruxelles, 1958), 130–131. See also the procedure applied in the case of Bartholomew de Welle in chapter 2.

³⁷ "corporum et bonorum arrestaciones, que mark' in terra Vasconie vulgariter nominantur." *EMDP*, I, pp. 365–366.

³⁸ See, for instance, *EMDP*, I, 398–401 and *Foedera 1307–1327*, pp. 89–92.

³⁹ For the reprisal procedure, see Mas Latrîe, "Droit de marque," pp. 530–31 and 540, Chavarot, Marie-Claire, "La pratique des lettres de marque d'après les arrêts du parlement (XIII^e—début XV^e siècle)," *Bibliothèque de l'École des chartes*, 149 (1991), 79–86, Gardiner, "Belligerent rights," pp. 538–539, Keen, *Laws of War*, pp. 219–222.

While this model in principle looks straightforward, numerous problems were *de facto* the result of it. The relationship between reprisals and war in particular put a strain on the relationship of the rulers. These small-scale injuries and private actions constituted a rather peculiar problem for the kings, in that they were too small to call for military action on the part of the rulers, but on the other hand they were big enough that they could not be ignored. In a sense, reprisal was akin to war and police actions, only it was carried out by private persons and not the officers of the king.⁴⁰ Thus, "Reprisals were . . . really an exercise of domestic law enforcement albeit delegated law enforcement—rather than a resort to war properly speaking".⁴¹

Since piracy entailed the killing and brutalisation of the victims, it must have engendered strong feelings of animosity towards the pirates, as well as their countrymen, who might justly be seen as accomplices. In this light, reprisal functioned as a controlled form of vengeance justified as restitution and debt recovery. Indeed, the language of the legal and diplomatic records seems to down-play what was at stake by describing it in terms akin to economic transactions.

The private actions of reprisals constituted a juridical as well as diplomatic problem in the late Middle Ages. In practice, the principle of collective liability meant that one offence could spread out to engulf a whole community, since actions against the innocent countrymen of the pirates by the aggrieved in turn called for counter-reprisals.⁴² Thus, the risk of an escalation from reciprocal reprisal to outright war or at least diplomatic crisis for the kings was always latent.

However, reprisals also benefited the rulers. Apart from the limitation of private retaliation and reprisal, Emily Sohmer Tai argues, on the basis of maritime politics in the Mediterranean in the fourteenth and fifteenth centuries, that it was a conflict-reducing medium. On the one hand, the princes wanted to acquire justice for their subjects, but on the other hand, they did not want to go to war for single cases of maritime theft. It was therefore better for the princes to control the means of private restitution than not to interfere at all, since the aggrieved might be tempted to have recourse to private acts of reprisal and unauthorised acts of confiscation and violence, which could lead to an escalation of conflict and

⁴⁰ Neff, *War*, pp. 50 and 76.

⁴¹ Neff, *War*, p. 80.

⁴² Keen, *Laws of War*, pp. 213–214.

drag the princes into the struggle anyway. Tai calls this a safety valve on an often combustible maritime situation. However, the control of reprisals also had another benefit for rulers. By controlling the right to decide what was legitimate reprisal and when it could be carried out, the princes affirmed their control over vessels and individuals and permitted them to define what constituted crimes and what was justified reprisal. Thus, on the one hand the prince appeared as the defender of their subjects' rights, and on the other he reinforced his position as the supreme power of the realm with a sovereign right to define right and wrong.⁴³ A similar view is advanced by the legal historian, Alfred Rubin, who states that the issuing of letters of marque and reprisal was not an attempt to control or curb piracy but rather to control and limit private legal remedies without having to commit royal military resources to the dispute. Rubin argued that by granting right to reprisal, the rulers seemed to give in to their subjects' pleas but in fact strengthened their power over their subjects by limiting and controlling their use of private force.⁴⁴ However, as we shall see in next chapter, this safety-valve could also have the opposite effect, namely to question or challenge the king's right to jurisdiction over the sea.

Arrest and Seizure

While Edward I promised foreign merchants in 1303 in the *Carta Mercatoria* that they would be exempt from prise and arrest,⁴⁵ the kings often had recourse to this measure. I shall begin with the king's order for arrest of foreigners' goods in their ports, since this is the first step in the reprisal and restitution procedure. The order of arrest was usually issued to royal English officers in one or more specific ports where fellow-countrymen of the pirates plied their trade. However, in wartime the kings would issue a general order of arrest of the enemy's subjects' goods in all his ports, a procedure the English used against the French and especially against the Scots and the Flemings in the period from 1280 to 1330.⁴⁶ Restitution for individual victims of piracy was most often only addressed to a select few ports (even though sometimes the kings would bundle complaints together, and threaten and sometimes carry out a general arrest).

⁴³ Tai, "Marking Water".

⁴⁴ Rubin, *Law of Piracy*, p. 34.

⁴⁵ *Early English Customs System*, p. 261 ("nullam prisam vel arrestacionem seu dilationem occasione prise").

⁴⁶ For instance, *Foedera 1307–1327*, p. 562.

In France, the same system was applied, but as the reprisal in the form of arrests and letters of marque was a tiresome and sometimes fruitless procedure, starting with Philippe le Bel in the fourteenth century, a procedure of mandatory taxes on foreign merchants trading in France was created. However, it seems exclusively to have been used in southern France in dealings with Italian merchants. Furthermore, while this tax was levied as a surety to pay for incidents of theft as well as debt evasion and other “financial” crimes committed by Italians, the levying of the tax was dependent on treaties between France and the foreign power in question. Thus, it was not a universal French royal policy but rather something applied in relation to specific groups or polities.⁴⁷

One example of a French maritime arrest dates to 1322, when the *Parlement de Paris* ordered a reprisal in the form of arrest of goods of Spanish merchants from La Coruña. The order read accordingly:

Order to the bailiff of Caux to arrest the person and the goods of inhabitants of La Coruña which he finds in his jurisdiction in reprisal of the crimes of the inhabitants of the said town as they have provided sanctuary for robbers and murderers guilty of having attacked near Belle-île a ship charged with wines from Bordeaux which belongs to merchants from Dieppe.⁴⁸

An English example of an arrest order is comprised of the proceedings in the restitution for English ships taken and plundered by the French admiral, Berenger Blanc, and his Calaisien mariners in 1315 and 1316 during the French war against Flanders. Since England and France were at peace in this period, and indeed collaborated in their struggles against the Flemings and the Scots, negotiations over the restitution of these goods commenced. Despite the state of peace between the two kingdoms, in 1318 and 1319 the English proceeded to counter-prises (that is, arrests) against French merchants, specifically of Rouen and Amiens, by confiscating their goods in London, Norfolk, Suffolk and Southampton up to a specific amount in order to obtain restitution for the English merchants. In this case, on several occasions Philippe V wrote to Edward to have him postpone or cancel the declared reprisal (*marcham seu contraprisiam*), often

⁴⁷ Chavarot, “Lettres de marque,” p. 87.

⁴⁸ “Mandement au bailli de Caux d’arrêter la personne et les biens des habitants de La Corogne (de Croigne) qu’il trouvera dans le ressort de sa juridiction, en représailles des méfaits des habitants de la dite ville qui avaient donné asile à des voleurs et meurtriers, lesquels avaient attaqué près de “Bel-lille” un vaisseau chargé de vins de Bordeaux, appartenant à des marchands de Dieppe.” *Actes du Parlement*, II, no. 6916, p. 474.

with success.⁴⁹ These proceedings were not a cause of enmity between England and France, and while the case did not please either of the monarchs and the negotiations and restitution were a complicated affair, no severe damage to the relationship seems to have come out of it. However, this did not mean that the tone could not be harsh at times. On 15 October 1311, Philippe le Bel complained about a piracy committed against Rochelais merchants. Philippe le Bel informed Edward that he had refused to issue a letter of marque (*marcham... concedere*) to the Rochelais, but the mere mentioning of this constituted a veiled threat that this would be Philippe's next step if restitution was not obtained. In 1313, restitution was obtained, which was remarkably fast for the period,⁵⁰ but it should be noted that Philippe's letter was sent a few months after the breakdown of the Anglo-French negotiations of Périgueux (12 January–2 June 1311) over Gascon disputes,⁵¹ and the risk of further French involvement in Gascony may have been the cause for the swift closure of the case.

A person could, however, obtain immunity from arrest and marque by having the king issue a letter of safe conduct. For instance, in 1314 Edward II granted a letter of safe-conduct for life in the Duchy of Aquitaine to Pierre de la Posterle of Oléron. This meant that his goods were free from arrest or marque *except* for his own debts or for those where he was a guarantor.⁵²

Debt

These arrests were not confined to the monarchs and their officers, however, and it seems as if arrest for debts was one of the motives for having recourse to piracy and maritime war. Thus, in the peace treaties between Bayonne and the Cinque Ports, and Bayonne and Great Yarmouth from 1277 (renewed in 1310), one of the clauses was to regulate the recovery of debt. The clause states that

⁴⁹ For the whole case, see: *CPR 1313–1317*, pp. 501–502, 545–546, 571–572, *CCR 1313–1318*, pp. 291, 341, 345–346 and 475–476, *CCR 1318–1323*, pp. 13–14, 52, 496 and 692. *Foedera 1273–1307*, p. 961, *Foedera 1307–1327*, pp. 272, 279, 280, 281, 292, 342, 350, 373, 455, 502–3 and 517. Champollion, II, 71–73. *Calendar of Chancery Warrants 1244–1326*, pp. 427–428. For other examples of arrests and counter-arrests, see TNA SC 8/258/12890A and TNA C 47/28/1.

⁵⁰ *Foedera 1307–1327*, pp. 146 and 149, *CCR 1307–1313*, pp. 445, 486–487 and 565.

⁵¹ Chaplais, Pierre, "Règlement des conflits internationaux franco-anglais au XIV^e siècle," *Le Moyen Âge*, vol. 57 (1951), pp. 282–283.

⁵² *EMDP*, I, 387–388.

if a man from either party owes debts to persons of the other party, if the debt is know it must be paid as soon as possible or the debtor shall be denied company of either of the parties, and he shall be denied entrance in towns of either party as well as ships, galleys or vessels belonging to either party until the debt is paid. And for unknown debts, let either party make justice as it is due.⁵³

In the treaty between Bayonne and the Normans from 1282, it was stressed that: "In turn, should dispute arise again because arrests which are called marches, we command that no master or mariners arrest anything of the countrymen of the debtor because of debt or offence of the principal arrest if the debtor or his fidejussor can be found".⁵⁴

Here the words of arrest and marque were used in direct relation to the issue of outstanding debts and piracies and war between these marines.

Pollock and Maitland's study of English medieval law expresses a procedure of suits and collection of debts which resembles the arrest and reprisal procedure. Like the cases of arrest, the issue was that the lender or sellers had parted with property and demanded a return through legal action. Furthermore, as in arrest cases, the plaintiff not only demanded restitution for the sum lost but in addition damages for unjust detention.⁵⁵ This relationship between debt and arrest is shown in various English sources concerning Law Merchant. For instance, in 1310 the sheriff of Yorkshire arrested goods of merchants of Groningen for outstanding debts to an English merchant.⁵⁶ In his studies of the medieval shipmaster, Ward has shown that there was a widespread use of credit in maritime commercial transactions and that several ingenious methods were employed to mask

⁵³ "tutz les hommes qi sont des parties e deyvent dette as autres, si la dette est conue, soit paie tant tost si le deteur ad dount paier la dette, et sil ne ad dont paier, adonk ne soit le deteur resceu en compaignie ne en commune en nule des villes que sont d'une part ou d'autre, ne en neef, ne en galeie, ne en vessel, si la que la dette soit paie; et pur les dettes que ne sont pas conues, que face chescon de les parties le foer ou droit que devera faire." Printed in Goyheneche, *Bayonne*, p. 534.

⁵⁴ "Rursum quia ex arrestacionibus que vocantur marches quandoque dissencionis occasio reviviscit, ordinamus quod ad instantiam aliquorum magistrorum vel nautarum nullus ipsorum arrestetur nisi pro debito vel delicto [quo—Chaplais] de arrestatus principalis debitor vel fidejussor existat." TNA C 47/32/22/2. See also *EMDP* I, 387.

⁵⁵ Pollock and Maitland, *English Law*, pp. 212–216.

⁵⁶ *Select Cases Concerning the Law Merchant A.D. 1239–1633*, ed. Hubert Hall (London, 1903), pp. 81–83. This collection of sources contains several accounts of debt and arrest, see, for instance, pp. 7–9, 11–12, 72–73, 73–76, 81–83, 83–85, 90–93 and 96–98. Most of these cases are somewhat ambiguous as to whether the arrest was justified. The fact remains, though, that the arrests by royal officers were often carried out for the recovery of debts.

interest, which it was illegal to demand in the Middle Ages,⁵⁷ but which might have been a source of strife among the mariners nevertheless.

However, cases of robbery or any type of violent acquisition, which arguably is at the core of the unjust detention through piracy, were not treated by Pollock and Maitland. They only considered debt and arrest in a civil and strictly commercial context. Nevertheless, French historians have recently explored this aspect. In her studies of *marque* in France in the thirteenth and fourteenth centuries, Marie-Claire Chavarot has pointed out that the victim of a theft *or* the creditor of an unpaid debt could be obliged to use violence to recover his money, not only from the delinquent himself but also from his countrymen.⁵⁸ An early case of French arrest was in 1263, when a Rouenais merchant was accorded an arrest of goods belonging to Germans because the king of Germany had an outstanding debt to him; another case occurred in 1270, when Robert d'Artois was accorded arrest against the commune of Saint-Valéry for a debt. In relation to piracy, however, the case of Montpelliérain merchants who were plundered by Genovese pirates is especially illustrative. These merchants were accorded a *marque* against the Genovese merchants in Nîmes, since that town had an especially large population of Genovese merchants. Thus, the concept of collective liability was invoked, and innocent Genovese merchants were to answer for crimes committed by their countrymen. Furthermore, the Montpelliérains did not have to take to the sea to obtain restitution.⁵⁹ Indeed, Chavarot stresses that the justification for the issuing of a *marque* was a tort unjustly committed by a foreigner. This tort could be a theft, plunder, non-payment of a debt, a promise which was not kept or the deprivation of a right.⁶⁰

Julie Claustre's studies of debts in the later Middle Ages further illuminates how debt could bring enmity between people. Claustre demonstrates that the use of debt was by no means confined to merchants and the upper levels of society. Rather, credit and loan-giving/-taking was

⁵⁷ Ward, *Medieval Shipmaster*, pp. 69–70.

⁵⁸ Chavarot, "Lettres de marque," pp. 53–54, "la victime d'un vol ou le créancier impayé pouvait être entraîné à reprendre son dû sur les biens des compatriotes du délinquant par les moyens les plus violents et irréguliers."

⁵⁹ Chavarot, "Lettres de marque," pp. 56–59.

⁶⁰ Chavarot, "Lettres de marque," p. 79, "Le point de depart [for a *marque*] est un tort injustement cause par un étranger, quelle que soit la nature de ce tort, vol, pillage, non paiement d'une dette, promesse non tenue ou encore privation d'un droit."

present throughout all layers of society.⁶¹ Debt and credit most often took place within familial or professional relations and was governed by the logic of reciprocity and solidarity. Accordingly, she states that debt was a “convention”, meaning that it was an arrangement or an understanding between persons already connected through other relationships. It was in no way a formal transaction between a person and a credit institution, but was instead a transaction which relied on already existing bonds of acquaintance. However, this initially peaceful understanding also had a darker side to it, namely that it established a relationship of dominance and dependency, expressed in legal terms as an “obligation” (*obligatio*). *Obligatio* in the Middle Ages defined less a kind of contract than a method of executing a contract. The medieval expression for debt thus insisted on the restraining bond which it imposed on the debtor in relation to the creditor, rather than on the amount owed, that is, the object of the contract.⁶² In other words, it gave the creditor a measure of power over the debtor, and made the debtor a dependent of the creditor. This dependency and the troubles of outstanding debts and the disruption of the hitherto reigning relationships of power amongst, for instance, neighbours in Paris led to festering anger, desperation and hatred. This is found in numerous cases of aggression and murder in fourteenth-century France perpetrated either by the creditor or the debtor (for instance, for gambling debts). In a society devoid of the impersonal bonds of modern credit institutions, the pursuit of an outstanding debt appeared as a means to humiliate an enemy, which in turn could result in the debtor seeking vengeance for this humiliation.⁶³ The fundamental cause for this development was the absence of unified credit institutions and financial transactions, like loan-giving, which were at the same time diffuse, multilateral and devoid of the impersonal character which is present in modern society with a institutionalised credit market. Since these institutions were absent, the loan rested in terms of security on the personal relationship between the creditor and the debtor. Consequently, the relationship of credit was also an emotional one filled with social and cultural significations which went beyond a mere relationship of economic dominance. It entered into the

⁶¹ Claustre, Julie, “La dette, la haine et la force: les débuts de la prison pour dette à la fin du Moyen Âge,” *Revue Historique*, 644 (2007), 799.

⁶² Claustre, “La dette,” pp. 800–802.

⁶³ Claustre, “La dette,” pp. 802–809. For an example, see *Confession et jugements de criminels au Parlement de Paris (1319–1350)*, eds Monique Langlois and Yvonne Lanhers (Paris, 1971), pp. 111–114.

definition of a social identity which was publicly constructed and reconstructed by conversations, rumours, reputation, and *fama*, which in turn called for the use of force for its defence.⁶⁴ Indeed, a creditor of outstanding debts which were not forthcoming could and would stigmatise the debtor as a thief. This permitted the creditor to apply private force to obtain the amount due if no public officers could be persuaded to exercise it for him.⁶⁵

It seems more than likely that at least some of the piracy cases, as well as the maritime wars, had started with debts which the debtor perhaps had tried to evade or which the creditor, his kinsmen or fellow citizens decided to claim by private arrest, honestly or fraudulently. This seems to be the essence of at least some of the cases of reprisal, namely taking back one's due, but needless to say, and as was already apparent in the medieval as well as our understanding of the word "reprisal", this must often have led to conflict, in court or by violence. No one could be expected to hand over goods for outstanding debts to a private third party who claimed to exact the debt on behalf of their fellow citizen. However, in legal terms, it still meant that what was described in the sources as lawful debt collection or reprisal was tantamount to theft and robbery.

Henry de Oreford of Ipswich and the Procedure of Restitution

Medieval kings were very reluctant to grant letters of marque. Instead they preferred arrest carried out by public officers after careful inquiries into the case. It seems as if these letters of marque, at least in the thirteenth and first quarter of the fourteenth centuries, were very much an instance of last resort, entered into only reluctantly when all other methods had failed. The reason for this was the obvious and almost inevitable series of reprisals between the merchants and mariners of the realms. An illustrative example of this course is the case of Henry de Oreford, merchant of Ipswich. In 1305 at the latest, Henry's ship, *La Lyon de Herewyk*, was attacked by Breton pirates (*malefactores*) from Le Conquet, presumably on the Island of Quéménès ("in insula de Kenevoys in Britannia"). The Bretons violently took the ship, valued at £200 sterling, and its cargo, also valued at £200 sterling, and imprisoned the crew for a long time, all to

⁶⁴ On *fama*, see Akehurst, F.R.P. "Good name, reputation, and notoriety in French customary law," in T. Fenster and D.L. Smail, eds, *Fama—The Politics of Talk Reputation in Medieval Europe* (London, 2003), pp. 75–94.

⁶⁵ Claustre, "La dette," pp. 809–811.

the severe destitution of Henry. Furthermore, this occurred at a time of peace, meaning that the piracy probably happened sometime between 1303 and 1305.⁶⁶ In 1312, Edward II wrote to his seneschal of Gascony stating the above-mentioned and adding that the duke of Brittany had freed the mariners but had refused to do Henry justice. Edward continued that when he had ascended the throne, he had ordered the seneschals of Gascony, John of Hastings and Guy Ferrers, that they should begin legal proceedings against the Bretons and (presumably) arrest their goods if they came to the duchy in order to do justice to Henry de Oreford: “completely in accordance with the legal statements of the said regions”.⁶⁷ Despite several letters to the duke of Brittany, Arthur II, demanding restitution, nothing had happened; the king now ordered the arrest of all Breton merchants’ goods in the Duchy of Gascony. Apparently, no reply came from the duke, and Edward ordered John Salmon, bishop of Norwich in the county of Richmond (a fief under the duke’s uncle, Jean), and two royal officers that if the Bretons and their goods came to Gascony, they were to summon them, hold court and to do speedy justice to Henry.⁶⁸

In a letter from 12 September 1317, from Edward II to the duke of Brittany, now Jean III, we find the continuation of the case. Apparently, the arrested goods of the Breton merchants were released by the commissioners without any restitution to Henry, but Henry seems to have been allowed to try the case at a court in Brittany. Nothing came of this, however; rather, Henry was beaten and grievously wounded by the duke’s men while prosecuting the case there. Therefore Edward II ordered the new seneschal of Gascony, Gilbert Pecche, to make a new examination of the case. This clearly proved the aggrieved status of Henry, and Pecche and his council granted Henry (at his request) a letter of marque (*marcham, lettre de marche*) against the Bretons and their goods until Henry could be satisfied to the amount of £1860 sterling (sic!)—that is, the initial loss plus compensation for further damages to Henry. However, at the intervention of the Breton duke’s proctor, Pecche suspended the execution of the letter of marque. This was a mistake, however, for instead of granting restitution to Henry, the duke tried to have Henry’s suit annulled by presenting

⁶⁶ The whole case is documented in: *RG*, IV, no. 689, pp. 193–194 and *CCR 1313–1318*, pp. 566–567 and 617. TNA SC 8/241/12028, SC 8/262/13085, SC 8/132/6564, SC 8/132/6566, TNA C 61/32/29.

⁶⁷ “*complementum secundum foros et consuetudines parcium predictarum*,” *RG*, IV, no. 689, p. 194.

⁶⁸ *RG*, IV, no. 689, p. 194.

it at the *Parlement de Paris*, thereby circumventing and undermining Edward's judicial authority by appealing to his liege lord for Gascony.⁶⁹ Now, Edward wrote the duke that before he reissued the letter of marque to Henry, he would for one (last?) time ask the duke to grant Henry restitution as Edward preferred the matter to be solved "in a friendly manner rather than that his damages should be levied from non-consenting parties (*ab invitis*), as is usual in such cases".⁷⁰ The duke was given until 30 November to certify that he had undertaken the restitution, or else the marque would be reactivated.

In a memorandum from 1318, it seems that Henry had finally obtained a partial restitution. Here it is stated that the letter of marque (*marchia quedam*) was awarded to Henry and that apparently a Reymund del Mays was appointed—with the consent of the Bretons and Henry—to levy the marque (that is, Henry would not enforce it himself) of the £1860 sterling. The memorandum stated that Reymund had received from the goods of Bretons in Bordeaux 234 "livres de petits tournois noirs",⁷¹ which he had paid to Henry without Pecche or his men having received any of this. This was confirmed by the chancellor, the bishop of Winchester. However, in December 1318, the marque was again activated as Henry still had not been provided full restitution.⁷² This is the last that we hear of this case, which in 1318 had been going for at least thirteen years. It also seems as if the Bretons, with or without the duke's consent, in the end accepted to grant restitution to Henry. This example shows how difficult it was to get restitution through the judiciary system, the hazards of pursuing the case abroad (the beating of Henry in Brittany) and the nature of the letter of marque, which, at least in the memorandum, appears to have been conceived of as an act carried out by a "neutral" middleman and confirmed by royal authorities. It also shows the confiscatory nature of the marque, even though the letter to the duke from 1317 seems to imply that Henry could carry out the marque personally and with force. Moreover, the case shows how hard it was to be granted a letter of marque and how easily it could be revoked. Furthermore, the statement that Edward preferred it to

⁶⁹ For appeal to the French kings, see Cheyette, Frederic L., "The royal safeguard in medieval France" in J.R. Strayer and D.E. Queller, eds, *Post Scripta: Essays on Medieval Law and the Emergence of the European State in Honor of Gaines Post* (Rome, 1972), p. 650.

⁷⁰ CCR 1313–1318, pp. 566–567.

⁷¹ According to TNA C 47/27/7, there were ten *livres de petits tournois noirs* per £1 sterling. Thus, Henry was only recompensed of £23.4 sterling, a far cry from the claim of £1860 sterling.

⁷² CCR 1313–1318, p. 617, TNA C 61/32/29.

be carried out in a friendly manner refers to the risk of a chain of reprisals which, in general, no ruler had any interest in. Finally, it shows the dirty tricks applied in suits like this one, as the duke of Brittany tried to appeal to the *Parlement de Paris* which often judged in favour of parties friendly to the French king.

The case of the piracy against Henry de Oreford is therefore an excellent example of the weakness of the procedure. It explains why some merchants and mariners seem to have preferred to take matters in their own hands, not least because the rigidity and uncertainty of the procedure could mean the destitution and poverty of an otherwise well-off merchant.

REPRISALS AND LETTERS OF MARQUE

The coincidence between the words used for letters of marque and those for the march, that is, a region with no clear jurisdiction, or rather overlapping jurisdictions characterised by frequent recourse to private actions of reprisals and retaliation, has led some historians to see the etymology of the expression, letter of marque, as a signifier of the sea being a marcher area (see chapter 6). In the nineteenth century, in *Glossaire nautique* Augustin Jal assumed that the “marque” was directly connected to the meaning of march as a border or a frontier,⁷³ and that letters of marque consequently should be read as frontier letters, that is, commissions for actions of private justice on the fluid borders of the medieval kingdoms.

This notion was supported by René de Mas Latrie. He argued that the reprisal system was Germanic in origin, since it was unknown to Roman Law. Indeed, the only mentions in Roman Law of reprisal was the prohibition of this practice. Thus, in the fifth century, with the breakdown of the Western Roman Empire and the advent of the Germanic kingdoms, a fundamental change in the law system occurred. Mas Latrie argued that the Germanic tribes’ coherence was based in particular on family and tribal solidarity, which ran counter to the Roman Empire’s formal focus on juridical universalism. As Mas Latrie put it: “The spirit of collective liability went well beyond [the family] amongst these people. All the members of a hundred, or rather of the same march, were held responsible

⁷³ Jal, *Glossaire Nautique*, p. 925.

for an offence or a crime committed by one of their *commarchati*.⁷⁴ Consequently, family members were obliged to defend their relatives, and collective liability in reprisals was the cornerstone of the system. In practice, however, this act could only lead to escalations of conflicts and in principle exacerbate the problem rather than alleviate it. Around the eleventh century, the Mediterranean cities were the first to put formal limitations on reprisals by having governments regulate it by letters of reprisal and *marque*.⁷⁵ Thus, Mas Latr   concluded that there was a direct connection between the march and the right to reprisals expressed in letters of *marque*.

However, in the twentieth century this connection between “*marque*” and march area has been refuted by Pierre-Cl  ment Timbal and Chavarot. They questioned the etymological connection between the words and considered it a mere coincidence that many of these reprisals took place in frontier areas. Timbal argued that “*marque*” came from *marcare* or *marchiare*, used in the same sense as *pignorare* in the medieval texts.⁷⁶ Chavarot stressed the synonymy with *pignus*, that is, pledge and an economic transaction, but she refrained from explaining the word’s origin.⁷⁷

In effect, what Timbal and Chavarot argued was that no linguistic connection could be made between *marque* and march. Instead, they referred to the meaning of one of *marca*’s synonyms, *pignus* and *pignoratio*, which were well known concepts in Roman property law. However, while *marca* presupposes seizure by way of reprisal, *pignoratio*, but especially *pignus*, are more abstract terms that simply denote distraint for non-payment of goods or for a service rendered and pledge of valuables. The words say nothing about the way in which this money or these goods were recovered contrary to *marca*, which presuppose a direct action on part of the aggrieved or the “creditor” to obtain his due. This further seems to have negated the direct connection to Germanic customary law. However, while *pignoratio* indeed seems to have expanded the meaning of *marque* considerably, the coincidence that *marque* was applied especially in marcher areas is still left unexplained.

⁷⁴ “L’esprit de la responsabilit   commune s’  tendait encore bien plus loin chez ces peuples. Ainsi tous les membres d’une m  me centaine, ou plut  t d’une m  me marche, *commarchati*,   taient tenus du d  lit ou du crime commis par l’un d’eux.” Mas Latr  , “Droit de *marque*,” p. 534.

⁷⁵ Mas Latr  , “Droit de *marque*,” p. 537.

⁷⁶ Timbal, “Lettres de *marque*,” pp. 113–114.

⁷⁷ Chavarot, “Lettres de *marque*,” p. 52.

Thus, while “letters of marque” and “march” etymologically seem to have different origins and indeed did not presuppose one another, they were related as a practice. In the march, private action to obtain restitution was permitted, something which the letters of marque conceded by princes also allowed under special circumstances.⁷⁸ So, in both cases, the heart of the matter was restitution and satisfaction legally obtained by private persons and by private means. As we shall see in the next chapter, the method for settling conflicts at sea was the method applied in the marches, that is, by arbitration and negotiation rather than strict judicial action on the part of a prince.

I therefore argue that while in its various forms the expression “marque” and “march” did not initially seem to be etymologically related, the letter of marque fitted rather well with the procedure for pursuing claims by private means (as well as with governmental support in some cases) against the offender, as well as his compatriots, in a march.

If the procedure of arrests failed, the ultimate resort was, as we saw with Henry de Oreford, to issue a letter of marque. Chavarot’s analysis of the development of the letter of marque in the Middle Ages in the documents of the *Parlement de Paris* shows that it—as a codified governmental measure for restitution of goods—spread progressively in the thirteenth century from the Mediterranean cities in Italy and Aragon to France. From the last third of the thirteenth century, the concept of marque was clearly present in the decisions of the *Parlement de Paris*, even though the term itself was not used until later. In the thirteenth century, the *Parlement de Paris* (but also the bailiffs and seneschals) ordered reprisals akin to marque, but the first case where the term “marque” was used was not until the case mentioned above between the Montpelliérains and the Genovese in 1308.⁷⁹ The marque cases in the *Parlement de Paris* are dominated almost exclusively by Mediterranean cases. This seems to signify that the approach to matters in northern Europe followed another line, most probably because the English kings were the French kings’ vassals for the Duchy of Gascony. Consequently, the French kings considered the quarrels that could result in reprisals and marque to be domestic affairs where they were the ultimate judges, whereas the cases with the Italians and the Aragonese were clearly of an international character between sovereign authorities. From 1313, the issuing of letters of marque became a purely royal prerogative,

⁷⁸ Keen, *Laws of War*, p. 219.

⁷⁹ Chavarot, “Lettres de marque,” pp. 56–64, *Olim*, III, no. LXXXIX, pp. 342–345.

as Philippe le Bel tended to control and discourage this recourse in order to avoid the escalation of conflicts which could prove detrimental to the kingdom's foreign policies.⁸⁰

In England, reprisals between towns were prohibited in 1274, but the practice persisted at least in London.⁸¹ The English use of the term "marque" probably came from either France or Spain, perhaps through Gascony where reprisals were a time-honoured action in disputes. The English letters of marque in maritime affairs in the 1290s seem to support this origin in Gascony, since the marque in the sources from this period was granted solely to Gascons. In some ways this seems to have been a desperate measure and proved detrimental to English foreign policy, as reprisals between Bayonnais and Castilians apparently got out of hand (see chapter 7).⁸²

Before commencing an analysis of the letters of marque, I will briefly clarify the meaning of marque in relation to reprisals and war. Auguste Dumas argued that there were several categories of rightful reprisal in the Middle Ages. First of all, Dumas, distinguished between prises in peacetime and during war.

In times of peace, the right of reprisal or marque was a right to take prises, either to avoid an imminent damage or threat or to obtain restitution for a damage already proven. Thus, if a ship was attacked, it had a right to defend itself and to capture the attacking ship if possible. For this, there was no need for any official authorisation. Reprisal and marque were:

the right, when one had been aggrieved by a foreigner, to take by force one's due or the equivalent of one's due from the fellow-citizens of this foreigner. From the fourteenth century, to have recourse to this action one had to be furnished with government authorisation: it was thus necessary to have obtained letters of marque or reprisals by one's prince before carrying out these actions.⁸³

In wartime, one could legitimately take prises if it was from the subjects and allies of the enemy, and in civil war against the opposing party, or

⁸⁰ Timbal, "Lettres de marque," p. 122, Chavarot, "Lettres de marque," pp. 63–64.

⁸¹ Gardiner, "Belligerent rights," p. 538, n. 39.

⁸² Rodger, *Safeguard*, p. 128.

⁸³ "Le droit, quand on avait été lésé par un étranger, de reprendre par la force son bien, ou l'équivalent de son bien, sur les concitoyens de cet étranger. Dès 1^e XIV^e siècle, pour y recourir, on devait s'être muni auparavant d'une autorisation de son gouvernement: il fallait avoir obtenu de son prince des lettres de marque ou de représailles." Dumas, *Étude*, pp. 3–4.

against the enemies of one's particular allies even though one's ruler was not at war with the ally's enemy. The example given by Dumas for the latter was the French mariners' operations in the 1330s to help the Scots against the English.⁸⁴ This distinction between reprisal and war was also stressed by Mas Latrie, who sharply distinguished between privateering and reprisals. The right to privateering ("*le droit de course*") was the right that a sovereign could concede to his subjects to arm ships to attack the vessels of the enemy's merchants in times of open war. This right was different from the right to reprisals, which could only be accorded in times of peace to obtain individual restitution after a denial of justice by the other party. During the actions of reprisal, the aggrieved was only allowed to take goods from the foreign party up to the loss that he had suffered but no more than that, and he was not permitted to commit actions which would endanger the peace between the kingdoms.⁸⁵ Nevertheless, while Mas Latrie and Dumas considered it a right, Chavarot asserts that it did not as such have a legal foundation until the sixteenth century and consequently should be considered an act (*fait*).⁸⁶

The letter of marque in the Middle Ages was thus different to those commissions of the same name issued in the seventeenth and eighteenth centuries. The medieval letter of marque was purely a peace-time measure to be issued by the government to private persons for them to obtain restitution from the pirate or his countrymen up the sum lost. Later, however, with the advent of state armies where private persons acted as auxiliaries to the already existing navy, the letters of marque became a privateering commission.⁸⁷

In the marque (as indeed in reprisals and arrests), three factors were stressed: it was a strictly peace-time measure; it was based on collective liability for the crimes of one's countrymen; and it was a quasi-legal measure to obtain restitution by private or public means when all acts of diplomacy had failed. While marque was related to retaliation, it was controlled and never led to war between the kingdoms, according to Chavarot⁸⁸—even though other historians have pointed out that at the very

⁸⁴ Dumas, *Étude*, pp. 3–4.

⁸⁵ Mas Latrie, "Droit de marque," p. 531, see also Chavarot, "Lettres de marque," pp. 52–53, Timbal, "Lettres de marque," p. 111, Jal, *Glossaire*, p. 925.

⁸⁶ Chavarot, "Lettres de marque," p. 52.

⁸⁷ Neff, *War*, p. 109, Thomson, *Mercenaries*, pp. 22–23.

⁸⁸ Chavarot, "Lettres de marque," pp. 52–53, see also Timbal "Lettres de marque," p. 111, Jal, *Glossaire*, p. 925.

least it posed a potential risk of war if the concession of *marque* was not controlled.

However, the problem with reprisal in general was that, as Timbal noted, it had to be controlled, in order that people with letters of *marque* did not abuse this “limited license” against specific targets for a specific amount to commit indiscriminate piracy. Furthermore, *marque* was a nuisance to the international trade, as one action of reprisal / *marque* was liable to be answered by a counter-*marque*, since most often the victim was innocent and therefore in turn considered himself entitled to a letter of *marque*. Thus, *marque* could set off a chain reaction of reprisals to the detriment of trade in general. Nevertheless, acts committed by holders of letters of *marque* were not piracy, but were legitimate due to the authority which had conceded them. In other words, it was legitimate but restrained piracy recognised by all kingdoms in Europe.⁸⁹

How the governments imagined that this would work without recourse to violence is unspecified in the sources, but it must have been clear to all that an assault by a person with a letter of *marque* on an innocent fellow countryman of a pirate could not be seen by the victim as anything else but a pirate assault, and consequently this would lead to physical confrontation. In other words, gratuitous violence and general plunder were prohibited by the governments, as this constituted vengeance and unlicensed plunder. In reality, however, this proved extremely hard to control and nobody could be expected to hand over their goods voluntarily. Nonetheless, by prohibiting violence the government could wash its hands of future acts of violence. Thus, reprisals constituted a curious quasi-war between individuals, licensed but without the direct involvement of the government. The letter of *marque* is therefore the clearest and most institutionalised version of reprisals. From these rules, it is apparent that reprisal (in the form of arrest without violence) was admissible, but retaliation was not. However, when reprisals were carried out, they easily ended up taking the form of retaliation.

What we are dealing with in the government-authorised reprisal was a purely economic measure of recovery of property. Here no room was left for emotions like hatred or vindictiveness. The reason the authorities handled the suits thus was probably that they could be reduced to a mere question of property, and once a plaintiff had been granted restitution, the case was closed even though the plaintiff might still be harbouring

⁸⁹ Timbal, “Lettres de marque,” pp. 119–120.

hatred against the pirates. While this certainly was a sensible approach to the problem when “police” forces were lacking, it could not be counted on to quell hostility completely. Nevertheless, we can say that the system of reprisals authorised by governments was based on a system of fair warning to avoid escalation of the disputes. However, it was intended more to protect the kings and their subjects than to assure justice for the individual, as shown in the case of Henry de Oreford.

Grossly stated, the execution of reprisal could be expressed in two ways. Either the kings ordered arrests of the goods of the pirate’s compatriots in their ports up to the amount of the losses suffered, or a private remedy was given where the plaintiff was authorised by the king to seek justice via restitution by his own power over the pirate’s compatriots at sea. Both of these were called *marque*, even though the letters of *marque* seem to refer to the authorisation of the private restitution, whereas arrest was carried out by governmental agents.

The Bayonnais Letters of Marque

It was often rather hard to be accorded a letter of *marque*, and it was not something that the rulers would issue easily. An example of such a denial occurred in 1305(?), when the owner of the goods in a Bayonnais vessel, Bidau Brane, complained to Edward I that his ship was plundered by people of Calais and Saint-Omer off the coast of Dover. These pirates had in turn sold the goods (linen and wine) to a Spanish vessel in Winchelsea. Brane now asked the king for a *marque* (“*doner marke sur les vins*”) on the wines in the Spanish vessel so that by this *marque* (*la marke*) he could obtain recovery for his losses. He ended the request by stating that the piracy happened in a time of peace between England and France (“*temps de la sufferance*”). Edward I replied that for certain reasons (perhaps the ongoing negotiations with the Castilians or the negotiations with the French over the killing at Quéménès), he would not grant him a *marque* (*la marke*) but that he would be willing to grant a letter of request.⁹⁰ The *marque* in question here must be an arrest of the goods of the Spanish merchant purchased from the French and not a licence to undertake a private attack on the French to obtain restitution. The manoeuvre here

⁹⁰ TNA SC 8/84/4185, Champollion, I, 368–69, assumes this took place around 1290, but the English National Archives more prudently date this to 1305, since a letter of protection presumable was given to Bidau on 6 April 1305. *RG*, III, no. 4917, p. 488.

was essentially to pass the buck of restitution to the Spanish who had bought the wine from the French in good faith (?).

The first proper *marque* case in the Anglo-Gascon sources concerns a grant of a letter of *marque* to Jean de Lévisnacq (Vinhiaco, Daubinhac), Guillaume Arnaud de Bielle (Viele) and Laurent de Piru. These were merchants, mariners and citizens of Bayonne. In this letter, dated 4 June 1293, Edward I let all his officers know that the three had obtained a letter of *marque* (*licenciam marchandi*) against the subjects of the king of Castile up to the value of their losses. The reason for the granting of the *marque* was that their ships had been plundered of goods to the value of £2000 sterling by Castilians under the orders of King Sancho IV of Castile. This was not an isolated incident, but rather the pinnacle of a series of piracies, killings, imprisonments, plunders and tortures committed by Castilians against the Bayonnais. Therefore, Edward I ordered his officers not to hinder but to aid these Bayonnais in any way in carrying out their *marque* up to the value of their losses, but he reminded them that the *marque* was only valid for two years.⁹¹ In 1296, Jean de Lévisnacq petitioned for a renewal of the letter of *marque* (*litteram marchandi*) against the Spanish as well as the Portuguese, since he still had not obtained restitution. Edward replied to his lieutenant in Gascony, Edmund of Lancaster, that this request should be refused if peace with Castile was restored. If, however, peace was not concluded, Edmund was to grant the letter and help Lévisnacq in any way possible in obtaining restitution for his losses from the Spanish and the Portuguese.⁹²

Another example is the granting of a letter of *marque* (*licenciam & licentiam marchandi*) to Bernard Dongressilli, merchant and citizen of Bayonne, against the Portuguese in 1295. Bernard had gone to Africa to buy figs and grapes destined for England. While the ship was anchored off the port of Lascoss (Cascaes or Lagos) in Portugal, in shelter from bad weather, it was attacked by pirates from Lisbon. They plundered the ship and carried the goods to Lisbon, where the king of Portugal allegedly received one-tenth of the spoils. Bernard suffered losses to the amount of £700 sterling and requested a letter of *marque* against the Portuguese on sea as well as on land. Through the mayor and the municipal government of Bayonne, Edward granted a letter of *marque* to Bernard, his heirs and successors to make reprisals (*“possit marchare, retinere et sibi appropriare illa”*) on the

⁹¹ *EMDP*, I, no. 218, p. 382, *RG*, III, no. 2132, pp. 75–76.

⁹² *EMDP*, I, no. 219, pp. 382–383, *RG*, III, no. 4254, pp. 340–341.

Portuguese, and especially those of Lisbon in the English king's lands as well as outside them, until Bernard had received satisfaction for his losses plus the expenses incurred by him in this undertaking. The duration of this *marque* was for five years or until it pleased the king. Therefore, the king ordered all his officers to help Bernard in obtaining satisfaction. However, the king stressed that Bernard was only allowed to take up to the lost values, the rest he had to answer for.⁹³

An interesting document from 1317 lucidly points out the problems with *marque* and why the kings were reluctant to grant it. On 6 June that year, the mayor and *jurati* of Bayonne wrote to Edward II complaining that he had granted letters of *marque* (*marcham*) to Johannes de Bainhers and Arnaud de Saint-Martin against the Spanish. Apparently, this had caused Lady Maria of Biscaya to complain and ask Edward not to include the Biscayans in these acts of reprisals. The initial complaint from Maria was issued sometime in 1317. She asked Edward II to specify that the *marque* (*marches, gage*) pronounced against Castilians were not extended to the Biscayans, who were nominally under Castile but enjoyed semi-independence from the Crown. Furthermore, they had been neutral in the conflict between Bayonne and Santander, Laredo and Castro Urdiales, and during the Gascon War they had aided the English. Probably some time later, on 12 April 1317, King Alfonso XI of Castile wrote to Edward on behalf of his uncle, Lord Johannes of Biscay, whose towns Bermeo, Bilbao, Placencia and Lequeitio, had suffered seizure of their goods in Bordeaux by the hands of the seneschal. Alfonso asked that they were not to be held responsible for crimes done by other Castilian subjects and asked that they would be exempt from arrest.⁹⁴ The Bayonnais, for their part, complained that the Biscayans were the friends of Bayonne and that Johannes and Arnaud were not Bayonnais citizens at all.⁹⁵ The Biscayans therefore had had no part in Bayonne's maritime war with Santander, Laredo and Castro Urdiales, but had remained at peace with Bayonne. Johannes and Arnaud should thus not be allowed to drag the town into a conflict and sour relations with the Biscayans. The Bayonnais therefore asked Edward to revoke the *marque* (*marchas*). Furthermore, Johannes apparently had taken goods from Flemings in Bordeaux under the pretext of a

⁹³ RG, III, no. 3892, pp. 292–94, *Foedera 1273–1307*, p. 828, Champollion, I, 418–20, Marsden, *Law and Custom*, pp. 38–40.

⁹⁴ *Foedera 1307–1327*, p. 325.

⁹⁵ "Qui Johannes & Arnaldus non sunt vicini nostri Baion", ymo sunt totaliter extra partes, & a nostrâ viciniâ alieni', *Foedera 1307–1327*, p. 332.

reprisal (*marchati*), on account of a claimed Flemish arrest of Bayonnais goods in Flanders. Thus, by his “rogue” actions, Johannes was endangering the relationship between Bayonne and the Flemings. Therefore, the Bayonnais asked Edward to remunerate the victims of these two, so that Bayonne could trade in peace.⁹⁶ However, it is doubtful if these two persons were not in fact citizens of Bayonne after all. Arnaud de Saint-Martin certainly had been a citizen of Bayonne as late as in 1316, and he had a long history of quarrels with the Castilians originating in the 1290s, when he and other Bayonnais merchants were unable to obtain restitution for goods plundered by the Castilians. While Arnaud had received partial restitution by an arrest of Spanish ships by the royal officers in Dover and in Portsmouth in 1316, he was still lacking of 165 marcs and 20 deniers. Edward therefore ordered the seneschal of Gascony to arrest Spanish goods to this sum.⁹⁷ It is possible that Johannes and Arnaud had lost their citizenship, but it is equally likely that the Bayonnais government repudiated them in order to avoid conflict. While it may be that Johannes was abusing his marque for indiscriminate piracy and fraudulent reprisals, at least Arnaud de Saint-Martin had good reason for doing it. In any case, in 1315 and 1316, the Bayonnais mariners were embroiled in struggles with Flemish mariners. The actions of “rogues” like the above-mentioned were probably detrimental to the interests of the government in Bayonne, who, with the ongoing reforms of the *Societas Navium*, were tightening the municipal control over the shipmasters and mariners.

It is quite interesting that the letters of marque that we know of from the first three decades of the fourteenth century were primarily granted to Bayonnais. An explanation for this may have been the rarity of Castilian merchants going to Bayonne to trade, as argued by Goyheneche. Instead,

⁹⁶ *Foedera 1307–1327*, p. 332.

⁹⁷ Arnaud de Saint-Martin is a somewhat nebulous character. In 1305, he was clearly a citizen and merchant of Bayonne, complaining with other Bayonnais of Spanish piracies and obtaining a marque against them (TNA SC 8/388/E1229). In 1308, he was called citizen of Bayonne in a document in the negotiations of settlement with Castile (*Foedera 1307–1327*, p. 44), but the next time the name appears in the sources in 1313 he was implicated in Edward II's prohibitions of tournaments in England. Here, he is called *serviens ad arma* of the king (*Foedera 1307–1327*, p. 196, 228). In November 1313, one Arnaud de Saint Martin was pardoned for the death (killing?) of Arnaud de Faure of Bonnegarde (*RG*, IV, no. 1151, p. 318), but the citizen and merchant of Bayonne, Arnaud de Saint Martin resurfaces again in the cases of unsettled restitution with the Castilians in 1315 and 1316 (*Foedera 1307–1327*, pp. 268 and 290–291), before he is finally mentioned with Johannes de Bainhers. It may be that Arnaud de Saint-Martin at one point was a royal sergeant, but it equally might be that we are in fact dealing with two different persons called Arnaud de Saint-Martin, a merchant and a sergeant-at-arms.

these Castilian merchants generally met the Bayonnais in ports such as Bordeaux, La Rochelle, on the coast of Brittany and in Flanders.⁹⁸ However, since these towns were not involved in the struggle and the English king held no power there (except for Bordeaux), arrest by the usual means would be impossible. Thus, the Bayonnais were obliged to seek the restitution at sea and by their own private power, rather than relying on royal or municipal arrest.

While the kings tried to control reprisals, in the end their initiatives do not seem to have hindered private reprisals. Merchants sometimes seemed reluctant to plead to the king and courts their case for restitution, not least because arrest could take years to effect and even then no positive result was guaranteed. Thus, sometimes the merchants and mariners preferred to take matters into their own hands and gain immediate restitution and restoration of honour at the possible expense of their compatriots. Likewise, if enmity had festered for a long time and slights of honour (real or imagined) were involved, the mariners and merchants seem to have been likely to retaliate. Sometimes this, too, must have served as an excuse for outright piracy. In other words, the judicial system and the inherent problems of resolving questions of violence and robbery committed at sea led to or sometimes forced the aggrieved to handle matters themselves to obtain restitution. A final example illustrates the indifference to or inability of the princes in dealing with their subjects' piracies. In a reply from the count of Hainault, Holland and Zeeland in 1324 to Edward II as part of a correspondence over piracy against English merchants, the count wrote that even though he knew the Zeelanders had falsely claimed that their piracies were licensed by the count, Edward had to understand that many of his subjects from Zeeland had been robbed by English mariners and that his men could not refrain from recovering their goods by the only possible way, reprisals, since Edward had refused to do restitution.⁹⁹ Thus, these reprisals were in essence personal and private wars waged by an individual against a community, with or without royal license and support.

In the end, it seems impossible to distinguish piracy from reprisals. Mariners rarely, if ever, would admit to having committed a maritime plunder based purely on opportunism and greed, since this would indeed be an admittance of robbery which was punished severely in the Middle

⁹⁸ Goyheneche, *Bayonne*, pp. 350–363.

⁹⁹ *CCR* 1323–1327, p. 171.

Ages (see chapter 8). Thus, while opportunistic piracy arguably did occur, it was only possible to define it as such after the authorities had proclaimed a judgement in the case. However, in the complaints it is an indisputable fact that victims of reprisals claimed to be victims of piracy.

CHAPTER SIX

THE SEA, THE MARCH AND SOVEREIGNTY

In *The Safeguard of the Sea*, Rodger claimed that the northern seas in the Middle Ages were “a lawless domain beyond the borders of civilized society”.¹ However, in this chapter I shall argue that this is too simplistic a way of seeing the politico-legal status of the sea in the Middle Ages. In the fourteenth century, there were numerous claims of sovereignty and control over this area, yet even beforehand, it seems as if conflicts were regulated by a custom of the sea expressed in a procedure of conflict settlement akin to, if not identical with, the one used for conflict settlement in the march-areas of England and France.

As we saw in the previous chapter, private justice codified into the letters of marque and arrest was one way of solving conflict and piracy at sea by private persons as well as by the authorities. However, the English and French kings in the first four decades of the fourteenth century tried to reverse this situation by claiming sovereignty over the coastal areas and the immediate waters bordering their kingdoms. This chapter shall deal with the political and judicial status of the sea in relation to conflicts and their resolution. It will provide a framework for marque, reprisals and piratical maritime wars.

I will begin, however, with a tentative definition of the “march” in the Middle Ages. Grossly stated, the expression “march” denoted a border or a frontier.² The march was an old Germanic concept dating to a time of unclear frontiers between lordships and kingdoms.³ In France, for instance there were the Burgundy march on the borders with the Empire and the Gascon march in the southwest. In England, there were the Welsh and the Scottish marches. In their specific customs, these marches were distinct from each other, yet they were characterised by certain common

¹ Rodger, *Safeguard*, p. 79.

² Godefroy, *Dictionnaire*, p. 167.

³ John France calls the general political situation of dominance of land “mouvances, circles of influence based on landownership which rarely coincided with the geographical area of settlement of any nation or any particular geographical unity. Moreover, these circles of influence overlapped heavily”. France, John, *Western Warfare in the Age of the Crusades 1000–1300* (London & New York, 1999), pp. 4–5. The marches were an even more accentuated version of this.

features which lie at the core of the concept of the march. It was thus not a political void, but rather a politically and judicially contested area of overlapping and often conflicting lordships and privileges. Furthermore, it was territorially both distinct and at the same time a fluid area moving with the waxing and waning of *seigneuries*. In a sense, the march seems to encompass both the modern meanings of the English words “border” and “frontier” (in the American sense), since it was the border between two kingdoms or lordships and at the same time a legal and political frontier with fluid and customary rules subject to third-party arbitration rather than a single prince’s jurisdiction.⁴

In his treatment of homage in the French marches from the tenth to the twelfth centuries, Jean-François Lemarignier identified the problem of what a march constituted:

What is thus the nature of the frontier? Is it precise or is it fluid? Is it a line or is it a region more or less difficult to determine? In this regard, the word *marca*, *marcha* or *marchia*, which broadly means ‘limit’, covers both notions of the term. It sometimes signifies a precise limit, but more often a liminal region and it is in this latter meaning that one speaks of marches governed by a marquis, which are frontier regions organised for security. By extension, *marca* also signifies a liminal territory.⁵

Thus, we are dealing with a fluid but at the same time a clearly identifiable region distinguished by a high level of insecurity because of its contested geographical position. Consequently, the march is characterised by a high level of martial organisation and a will to use force over law in disputes.

The march concept was vital as long as the medieval kings remained not much stronger than their most powerful vassals. In the High Middle Ages, especially the thirteenth century, when the kings were increasingly asserting their power, supremacy and indeed sovereignty over their

⁴ Cambridge Dictionaries online. Border: “the line that divides one country from another”, http://dictionary.cambridge.org/dictionary/british/border_1 Frontier: “a border between land used to grow crops where people live and wild land,” <http://dictionary.cambridge.org/dictionary/british/frontier> Accessed on 25 February 2011. For a discussion of the terms “border” and “march” in the twelfth and early thirteenth century, see Benham, Jenny, *Peacemaking in the Middle Ages: Principles and Practice* (Manchester, 2011), pp. 31–32.

⁵ “Quelle est aussi sa nature [la frontière]? Est-elle précise ou est-elle floue? Est-ce une ligne, ou est-ce une région plus ou moins difficile à déterminer? A cet égard le mot *marca*, *marcha* ou *marchia*, qui a, en gros, le sens de limite, recouvre les deux notions. Il signifie parfois limite précise, plus souvent région limite et c’est dans ce dernier sens que l’on parle des marches gouvernées par les marquis qui sont des régions-frontières organisées pour la sécurité. Par extension, *marca* signifie aussi territoire limité.” Lemarignier, Jean-François, *Recherches sur l’homage en marche et les frontières féodales* (Lille, 1945), p. 5.

vassals and the collective territory that they identified as their kingdom, the conflict between royal power and the denizens and lords of the marches was accentuated. In the words of Lemarignier, “the new political frontier would often coincide with those that had developed from custom which were developing in the tenth to the twelfth century within the framework of the *seigneurie*. By modelling itself on the customary frontiers, it increases the opposition between the lands which they separate”.⁶

From a judicial point of view, what Lemarignier stressed here was the clash between royal law and seigneurial law or customs. This was really what lay at heart in the concept of the march from a politico-legal point view, that is, conflicting and overlapping jurisdictions.

TERRESTRIAL MARCHES

This portrayal of the march as a region characterised by hostilities occurs in numerous sources. For instance, in 1313, the town of Is-sur-Tille in Burgundy effectively submitted to royal control and taxes, on the condition that Philippe le Bel supplied royal protection “By sending the king’s men to pursue the malefactors and the banished who, until now because of the proximity of the Empire, were pillaging with impunity the land and march of Burgundy near the Saône in the bailiwick of Sens”.⁷ While the situation on the eastern border of the French kingdom is interesting, the situation in England and Gascony has a greater relevance for the mariners’ conflicts. Therefore, I devote the rest of this section to a survey of the Welsh march, the Anglo-Scottish march and the Gascon march to achieve a condensation of the concept of the march.

As a region, the Welsh march was a result of the Norman Conquest in 1066 and the forced end to the expansion which the Norman invaders encountered in the Welsh highlands. For protection against Welsh hostilities and to lead offensives against Wales, the lords who came to rule the Welsh march were endowed with special privileges. Amongst these was

⁶ “la frontière politique nouvelle va souvent coïncider avec celle du ressort de coutume qui s’organise, du X^e au XII^e siècle, dans le cadre de la seigneurie. En se modelant sur les frontières coutumières aggraveront l’opposition entre les pays qu’elles séparent.” Lemarignier, *Hommage en marche*, p. 8.

⁷ “pour mettre les gens du roi à même de poursuivre les malfaiteurs et bannis qui, jusqu’alors et grâce à la proximité de l’Empire, désolaient impunément la terre et marche de Bourgogne, vers la Saône, au baillage de Sens.” *Registres du Trésors des chartes*, ed. Robert Fawtier, 3 vols. (Paris, 1958–1984), I, no. 1860, p. 374.

the right, as the only lords in England, to maintain private armies and conduct wars at their own initiative, originally to protect against Welsh aggressions and to lead punitive operations against the Welsh. However, this quickly developed into a right to protect their territories, interests and privileges with armed might against all aggressors. These marcher lords were *de facto* semi-independent lordships in a region which was defined as separate from Wales proper, as well as separate from the kingdom of England. It was simply called the “Welsh March”, which effectively constituted a buffer zone between England and Wales. The Welsh marcher lords were *de facto* princes of their own little “kingdoms”, with, however, a certain degree of dependence on and adherence to the kingdom of England.⁸ According to Rees Davies, the nature of the law of the Welsh march “was a *droit coutumier* in the fullest sense, unwritten body of custom whose keepers were the will of the lord, the precedents of the court, and the collective memory of the folk”.⁹

Since these lords were semi-independent, disputes and their settlement were under the lords’ jurisdiction, yet at the same time they were subject to “international” negotiations like those between the European kingdoms. This problematic relationship, as well as the judicial situation, has been characterised by Davies thus:

The phrase ‘the law of the march’ was occasionally applied by contemporaries to refer to the regulations, both official and unofficial, whereby marcher lords tried to settle the problems which were bound to arise between one lordship and another in the absence of a central authority. These marcher border regulations—including love-days [meetings for the settlement of disputes], mutual extradition arrangements, letters of march, the practice of disclaimer...were, the international rather than the internal law of march.¹⁰

This meant that the march of Wales resembled, in at least one regard, the Continental lordships more than their neighbouring English ones. Thus, we can confidently say that the increased hostility, the military organisation and the judicial status of this march conformed to the image given by Lemarignier for the French marches.

⁸ Davies, R.R., “The medieval state: The tyranny of a concept?,” *Journal of Historical Sociology*, 16 (2003), 294, Lieberman, Max, *The March of Wales 1067–1300* (Cardiff, 2008), pp. 3–4.

⁹ Davies, R.R., “The law of the march,” *The Welsh History Review*, 5 (1970), 6–7.

¹⁰ Davies, “Law of the march,” p. 2.

The Anglo-Scottish march was different to the Welsh one in a number of respects. First of all, Scotland had a king and thus a unifying and legitimate ruler around whom the nobles could rally, something which the Welsh lacked. It was a kingdom like England, and it had to be dealt with in that way. Furthermore, unlike the Welsh march, the Anglo-Scottish march was defined by a written law or custom, agreed by the English and the Scots in 1249.¹¹ Before this date, Anglo-Scottish relations and disputes were characterised by a legal vacuum, and settlements were based on ad hoc decisions. The core of the problem was that the kings could not decide on a legal system in an area where both parties claimed jurisdiction.¹²

The 1249 law was established by an Anglo-Scottish commission, and they agreed that marcher cases should be settled by mixed juries with an equal number of jurors from each side. These mixed commissions would convene at traditional border sites like the Priory of Carham to hear and try cases. The essence of the 1249 Marcher Law was the payment of compensation to borderers in matters of homicide, which was provided for through fines, and for theft, full restitution. However, the assessment of damages was a serious difficulty of March Law, and the final method of proof in contested disputes was wager of battle. This trial by combat was maintained throughout the Middle Ages, despite the fact that as a juridical solution it was becoming increasingly frowned upon by kings in the later Middle Ages.¹³ In wartime, however, this means of settlement was suspended. This method of proof meant that the role of the mixed jury in the marcher tribunals was ambiguous and without a formal executive power of decision.¹⁴

The purpose of the march days and the march law was therefore primarily concerned with redress, to recompense for damages in order to avoid an escalation of the conflict, since the raiding and counter-raiding over the border could eventually develop into open war.¹⁵ On the general nature of the Anglo-Scottish marcher laws, Henry Summerson writes:

¹¹ *Leges marchiarum*, ed. William Nicholson (London, 1705), pp. 1–9.

¹² Neville, Cynthia J., *Violence, Custom and Law* (Edinburgh, 1998), p. 4.

¹³ Nevertheless, as Vale has pointed out, trial by battle remained vibrant in the aristocratic culture throughout the Middle Ages and eventually gave rise to the aristocratic duelling culture. Vale, Malcom, "Aristocratic violence: Trial by battle in the later Middle Ages," in R.W. Kaeuper, ed., *Violence in Medieval Society* (Woodbridge, 2000), pp. 159–181.

¹⁴ Summerson, Henry, "The early development of the laws of the Anglo-Scottish marches, 1249–1448," in W.M. Gordon and T.D. Fergus, eds, *Legal History in the Making: Proceedings of the Ninth British Legal History Conference* (London, 1991), p. 32, Neville, *Violence*, p. 6.

¹⁵ Summerson, "Early development," p. 36.

the Law of Marches were essentially a set of regulations for the prosecution of offences committed by the inhabitants of one country inside the territory of the other, and for the recovery of property stolen or lent across their common border. In theory all acts of theft or violence committed by Scots against Englishmen in the latter's country, and vice-versa, were to be judged on the march in accordance with these laws. In practice, a Scot assaulted in London was unlikely to sue for redress on the Solway or at Reddenburn—though robberies at sea continued to be so justifiable—and the jurisdiction of the laws was effectively limited to the border lands of England and Scotland.¹⁶

The settlement of marcher disputes mainly had as its focus restitution and compensation rather than punishment, however. Thus, the purpose of the march procedure was not to settle by judge and trial but rather to negotiate a settlement, possibly by compromise.¹⁷ As we shall see below, this was exactly the procedure for which the Gascons pleaded in 1293 and throughout the first decades of the fourteenth century.

A problem for the kings of England was that, contrary to the Welsh situation, they had to treat with a king, that is, an equal. However, with the imposition of John Balliol as king of Scotland in the 1290s, the situation changed, since in order to obtain English support for his claim to the throne, he had to swear an oath of fealty to Edward I for the kingdom of Scotland.¹⁸ This altered the status of the march law, which in essence had been based on a relation of equality between the king of England and the king of Scotland. From 1296 with the English military intervention in Scotland, march law was suspended, and English justice and law was imposed in the Scottish border-regions to make the conquest real and durable.¹⁹ This created an Anglo-Scottish situation akin to the Franco-Flemish one with all its problems of rebellion and wars for independence. Thus, during the Scottish wars of the first three decades of the fourteenth century, the march law was reinstituted, but now the English kings imposed royal wardens to guard the peace and assure the settlement of disputes.

This instituting of a warden is interesting, as the English had experience of this from the Cinque Ports, where the warden of the Ports acted as a controller of this strategically important area. Murray compares the situation of the wardens of the English southern coasts with that on the Scottish march. She notes that both areas were administered for security

¹⁶ Summerson, "Early development," p. 29.

¹⁷ Summerson, "Early Development," pp. 32–33 and 39–40.

¹⁸ Brown, Michael, *The Wars of Scotland, 1214–1371* (Edinburgh, 2004), p. 169.

¹⁹ Neville, *Violence*, p. 15.

and jurisdictional purposes by wardens, whose functions were essentially those of a sheriff.²⁰

While the two situations were different, especially since the warden of the Cinque Ports enjoyed a good relationship with the Portsmen, an aspect which was absent in the relationship between the northern wardens and the locals, there is a coincidence in the situation of the political geography of where these wardens were instituted. Both were on the extreme borders or frontiers of the English kingdom, signifying wardens as royal officers guarding border areas with special privileges conceded to them in return for ready and armed assistance in case of invasion or threat to the kingdom. Thus, in a sense, one could consider the warden of the Cinque Ports as a royal marcher-lord, and, as in the Anglo-Scottish march, the Portsmen also enjoyed the right to their own separate court of justice on the Isle of Sheppey. In this regard, the Portsmen were also marcher-men, only this time at sea in the march between England and the Continent. The officer of the warden of the Scottish march was instituted in 1296, but not until the first decades of the fourteenth century were the wardenship and its duties defined more precisely.²¹

In relation to the piracies and maritime wars, the most important march was the Gascon one. Gascony had never really been controlled by the Capetians, and the control of Gascony by the English kings since 1154 had further exacerbated this situation. Since Gascony, apart from the wine production, was a relatively poor and uncontrolled area which no lord had ever been capable of subduing, a culture of *guerrae* and the quasi-independent right to solve disputes by arms thrived. The dual status of Gascony as a fief under the king of England in his role as duke of Gascony, and at the same time the nominal participation of Gascony in the kingdom of France, led to several and continuous border clashes in the region, with Gascon nobles seeking the aid of either king against their local enemies. Furthermore, a pauperisation of the local aristocracy in the thirteenth century, combined with a fierce martial culture, had led to a significant militarisation of the area. This created the problem that once the spiral of private war was set in motion, it was difficult to halt or control.²²

²⁰ Murray, *Constitutional History*, pp. 80–81.

²¹ See Reid, R.R., "The office of Warden of the Marches: Its origin and early history," *The English Historical Review*, 32, (1917), pp. 481–485.

²² Vale, *Origins*, p. 126.

In 1293, before the outbreak of the Gascon War, the noblemen, prelates and town communities of Gascony sent a description of the *customs des marches au royaume de France* to Edward I, clearly to defend themselves against Phillippe le Bel's allegations and citation of them. It contained four articles on the march-procedure. It began with a reference to the procedure in the marcher areas between France and the Empire, the count of Bar, the duke of Lorraine and the count of Burgundy, all marcher-lords, thus attempting to establish a link to the common procedure for dispute settlement in the French marches.

The first article concerns the settlement when *prise* or *trespas* had occurred between marchers, especially the officers of the French king and the marcher-lords of the Empire (that is, the above-mentioned lords). Such settlement was to take place at a *jour en marche*, where one or more persons from each party were chosen as *esgardeurs* (adjudicators) to hear the complaints and to determine whether each action, *prise* or *trespas*, was lawful, that is, justified (presumably as reprisal for some wrong committed by the other party), or whether it was faulty, and thus judge that the trespasser make restitution. This was to be done with all the cases presented, and if the *esgardeurs* could not agree amongst themselves, the process would be postponed to another day. This was to be conducted with the counsel of people knowledgeable in the marcher custom ("conseil de ceux qui scevent des customs des marches").²³

The second article stated that in cases where the *prises* and *trespasses* were committed by private persons, that is, not by officers of the marcher-lord, the marcher-lord was not obliged to come to the *jour en marche*, but instead he had to render justice to his subject. The third article was that if a *prise* has been committed and an assembly has been made at a *jour en marche*, the victim could not engage in counter-reprisals (*countregagier*) if the assembly decided on restitution. Fourth and finally, if the marchers broke up without having reached an agreement, the procedure was postponed, and they were obliged to continue with this last unsolved issue before proceeding to treat a new one, unless something had occurred which altered the situation.²⁴ This custom seems primarily intended for lords, but since not only the clergy but also the towns were co-authors of the *Customs*, it seems more than likely that "lord" should be understood to include the towns as well as marcher nobles with the right to use force

²³ EMDP, I, 364.

²⁴ EMDP, I, 364–365.

to settle disputes with other marcher lords. This notion is confirmed by the frequent recourse to force by, for instance, Bayonne to settle differences with its Gascon neighbours. The message of these *Custumes* was that the Gascons wanted the conflicts with the French king to be settled in this way and not by the king's courts and the judgement by French royal law.

In the *Custumes*, the sea and maritime conflict is not mentioned, and the immediate interpretation is that this was only applicable to (march) conflicts on land. However, the context makes it probable that maritime conflicts could and should also be solved in this way. This notion is both supported by the process of Montreuil-sur-Mer, 1306 (see below), and the provisions in later Gascon declarations of march law.

Around 1331, the Gascons petitioned Edward III to uphold the ancient rights, customs and privileges of the Gascons in return for their loyalty (presumably against a settlement over their heads with the French king). The core of the argument was the right to be governed in conflict by common judges (*esgardiatours*), in the manner of elected arbiters at a *jour en marche* for all conflicts between Gascons and subjects of the king of France, the king of Castile, the king of Navarra or all other marcher lords for all trespasses, whether criminal or otherwise. For "the sea of England", crimes were to be "governed by the laws and statutes made and ordained by the kings of England and published in the Island of Oléron which lies in the said seas of England and which guards the passage between all manner of people that pass those waters".²⁵ Here the *Rôles d'Oléron* and the march-law seem identical, yet there is nothing in the extant versions of the *Rôles d'Oléron* on conflict at sea, and we are thus left guessing. Between 1337 and 1339, the Gascons demanded once again that conflict with the French should be resolved on land according to march-law and at sea according to the *Rôles d'Oléron*. The mentioning of the *Rôles d'Oléron* in relation to march laws and conflict resolution seems to indicate that the same principles were in fact at hand, namely private arbitration with royal mediators. The exact wording of the rule of the *Rôles d'Oléron* on maritime dispute mentioned in the original charter is unfortunately damaged beyond readability, which means that we can only speculate about it. The only part that is legible is the following: "And according to the said

²⁵ "trespass fait en la mer Dengleterre, destre gouvernez par les leys et estatuz jadis faitz et ordeinez par les rois Dengleterre et puppliez en lisle Doliron esteant en la dite mer Dengleterre et gardes entre tote maner des gentz passaunz par la mer desusdite." Chaplais, "Règlement des conflits," p. 294.

laws called the *loy de Oliroun* once given and made by your ancestors, the kings of England, in regard to goods taken and damages caused in the above-mentioned sea of England".²⁶ This seems to be some sort of institution for reprisal and restitution in the vein of that proposed in the march, and I find it reasonable to assume that this was at the core of whichever of the *Rôles d'Oléron* applied in relation to conflict at sea. On the *dorse* it further says: "The ancient custom of Gascony called the *marque*, and in England, the arrest",²⁷ just like in the 1282 peace treaty between Bayonne and Normandy (see chapter 7). However, an alternative interpretation is that the adjudication of cases of maritime conflict was the prerogative of the kings of England, but as I will show below, this did not necessarily rule out the application of a march law procedure.

Two other documents from the early years of Edward III's reign support this interpretation. In an anonymous commentary by one of Edward III's advisors, Anglo-French disputes in Gascony could only be settled by bipartite commissions as stipulated in march law, that is, at a *jour en marche* by elected *esgardiatores*.²⁸ This method had been agreed in the peace treaty of Paris in 1327 and was thus the official way for conflict resolution in these areas. A further explanation of how the English understood the practical application of this is supplied by the keeper of documents, Ellis Joneston, from the early part of Edward III's reign. He named two ways of solving disputes in the Gascon march; *cognicio communis* (a bipartite commission) and *cognicio consuetudinaria* which was based on march law (that is, private retaliation and reprisals). In essence, Joneston argued that the *cognicio communis* and the *cognicio consuetudinaria* were two sides of the same coin. The *cognicio communis* was to be applied for damages caused in peace-time, and the *cognicio consuetudinaria* was to follow march law and it applied to negotiations after wars, in time of truce and peace.²⁹ Joneston maintained that the essence of the *cognicio consuetudinaria* was that it permitted "the arrest of bodies and goods

²⁶ "Et solonc les dites loys jadiz ordeinees et faites par voz auncestres, rois Dengleterre, appelees la loy de Oliroun, quant as biens pris et damages donnez en la mier Dengleterre susdite..." TNA C 47/28/5/52, partially reprinted in Chaplais, "Règlement des conflits," pp. 296–297.

²⁷ "Le auncien custume de Gascoinge appelle la mark et [en] Engleterre arrest," *EMDP*, I, 365.

²⁸ "diem in [con]fin[i]is et iudices communes ad modum arbitri electos, esgardiatores vulgariter nuncupatos." *EMDP*, I, p. 365.

²⁹ Chaplais, "Règlement des conflits," p. 283.

which in common parlance are called 'marque' in Gascony".³⁰ However, the result of this custom most often was the punishment of the innocent while the criminals walked free. This consequently opened up the risk of war between England and France, to the detriment of the crusade to liberate Jerusalem planned by Edward III and Philippe VI. Therefore, the *cognicio communis* was to be preferred and conducted before things escalated to the use of *cognicio consuetudinaria*, which in effect occurred as the result of failure to find an amicable solution to a dispute.³¹

Despite the differences between these marches, I argue that they had traits in common and that these stem from the special legal and territorial status of the march. This meant that settlement and the execution of sentences rested on the private persons implicated, with no clear and superior authority to which one could present the issues and expect both parties to respect that authority and recognise its legitimacy in relation to the settlement of the dispute.

So, apart from the conflicting jurisdictions and consequently the higher level of martial organisation to defend these jurisdictions, what further distinguished the march in terms of conflict and its resolution was that:

1. The lords—including towns—had the right to settle their difference by arms without any direct interference from the kings.
2. Settlement of disputes should be handled by a few people chosen from each side, provided both parties agreed to this. They should adjudicate by equity rather than by law. These should form a commission with an equal number of arbiters from each side, and the commissioners should be people not directly involved in the dispute, and have sufficient integrity recognised by both parties. At the same time, however, they had to be confidantes of the party which appointed them for the commission so that they could protect against unfair decisions.
3. The marcher law or customs were actually more like a framework for the settlement of disputes than a body of law proper. The execution of sentences, however, rested with the plaintiff and the defendant. While royal officials could intervene, they were not authorised nor recognised as an executive body, but rather functioned as a counselling third party. Thus, no single official or sovereign could pass judgement. The

³⁰ "corporum et bonorum arrestaciones, que mark' in terra Vasconie vulgariter nominantur," *EMDP*, I, 366.

³¹ *EMDP*, I, 365–366.

character of the court was more of a regulated meeting where the parties could present and discuss the issues and reach a settlement.

4. These negotiations of settlement should take place somewhere in the march, commonly agreed upon.
5. The settlement should be unanimous in order to obtain a durable solution to the problem at hand and to avoid hatred and grievances festering. And, by entering upon a march procedure, the plaintiff and the defendant were expected to respect the decision of the commission.
6. To a certain extent the march was an area characterised by a permanent state of truce (that is, latent, but not open war).

A MARITIME MARCH

The above-mentioned marcher areas were all on land, where physical and visible markers of borders, such as fortifications, could be erected and become a physical expression of the political status. However, for the sea this marking of water was more difficult, given the inherently intangible and uncontrollable quality of the sea. The closest one could get to control over the seas was control over the ports, naval patrols of the sea-lanes and finally claims to sovereignty over the waters bordering the coasts of the kingdoms. Yet, around 1300, the kings lacked the resources to make good any of these measures.

The view of the sea in the Middle Ages seems to follow the historian Jacques Le Goff's distinction between culture and nature. On this distinction he wrote:

the fundamental dualism between culture and nature expressed itself through the opposition of that which is built, cultivated, and inhabited (town-castle-village) and that which is essentially wild (the sea and the forest, the Western equivalents of the oriental desert). It thus expressed the difference between men who lived in groups and men who lived in solitude.³²

This image of a wild and intangible territory can be seen in the portrayal of mariners in medieval literature. For instance, Kimberley Campbell has noted the *chansons de geste*'s depiction of the mariners' superstition and

³² Le Goff, Jacques, "Le désert-forêt dans l'Occident medieval," in J. Le Goff, *L'imaginaire médiéval* (Paris, 1985), p. 74. The translation is partially based on the one in Le Goff, J. *The Medieval Imaginary*, A. Goldhammer, transl. (Chicago, 1992), p. 58.

only skin-deep Christianity in the face of danger at sea,³³ and in his book on the people of the sea in the Middle Ages, Mollat quotes Nicole Oresme and Eustache Deschamps for the sea folk's reputation of pride, unruliness and perfidiousness.³⁴ Other more neutral depictions, yet still insisting on the influence of a life in a liminal area on the behaviour of the mariners, are found in the romance *Eustache le Moine*, where the trickster, run-away monk and pirate Eustache le Moine had been taught black magic in Toledo by the Devil himself. He was therefore able to manipulate bodies of water through magic.³⁵ In another account of Eustache's exploits, the *Polistorie de Jean de Cantorbéry*, it was told that Eustache taught his former co-pirate and later slayer, Stephen Crabbe, magic, and that Eustache used magic to make his ship invisible.³⁶ In the romance *Fouke Fitz Waryn*, as in many other *chansons de geste*, the sea, the islands and the countries surrounding the core of Christian Europe were inhabited by monsters and infidels, thus underlining the opposition sketched by Le Goff.³⁷ Admittedly, this does not tell us anything about the mariners' perception of themselves, but it does signal the perception of the character of the space where they plied their trade and the assumed influence of this rough environment on their behaviour. This unruliness and inherently ungovernable nature of actions at sea accordingly connects to the march dispute and settlement procedure.

The sources stating that the areas of sea between England and France were a march are scarce, but in those that exist, the meaning is hard to get wrong. In the introduction to the *Liber Horn* version of the *Lex d'Oleron* from 1315, it is stated that "Insula de Olirun sita est in mari Austrino inter Cornubiam et Aquitanium. Et est Marchia inter Aquitanium et Peyto", that is, the island of Oléron is in the march between Aquitaine and Poitou.³⁸

In a petition from 1331, the Channel Islanders likewise identified the position of their islands as being in the march of all nations ("la grant

³³ Campbell, Kimberley. A., "En haute mer: navire et marin dans la chanson de geste," in M. Lacassagne, ed., *Ce nous dist li escrits... che est la verite* (Aix-en-Provence, 2000), p. 46.

³⁴ Mollat, Michel, *La vie quotidienne des gens de mer en Atlantique IX^e-XVI^e siècle* (Paris, 1983), pp. 221–222.

³⁵ Burgess, Glyn, *Two Medieval Outlaws: Eustace the Monk and Fouke Fitz Waryn* (Cambridge, 1997), p. 75.

³⁶ Cannon, H.L., "Battle of Sandwich," p. 668.

³⁷ Burgess, *Medieval Outlaws*, pp. 166–172.

³⁸ Ward, *Medieval Shipmaster*, p. 183. This statement is also found at the end of the Rawlinson MS and in the MS in the *Liber Memorandum*. See *Black Book of the Admiralty*, I, p. lx, n. 2.

mer en la marche de toutes naciones”) and that they therefore always had to be vigilant against assaults.³⁹ This notion is repeated in the proceedings of a case of piracy in 1361, when the English Channel is once again described as a march (“en la meer, qest marche entre les deux roialmes”).⁴⁰

In a letter to Philippe VI, probably from 1331, Edward asked for the cessation of prises and counter-prises on sea and land so that trade could prosper unhindered. He stated that these measures should only be used by marcher lords to obtain justice for their subjects because of the damages done by other marcher lords’ subjects. This should be settled at peaceful *jours marchis*, as was agreed in 1303. These *jours marchis* were to be conducted by eight *gardiens de la pees* (four English knights and four French knights), who should always be ready to settle cases. Specifically, these guardians were to be two knights from Picardy and the seneschals of Dover and Ponthieu to guard the peace between the mariners of Calais and Winchelsea and the east of England, and two knights from Saintonge and Poitou and two from Gascony to guard the peace between the Normans, the Bretons and the English of the western realms. However, Edward complained that the service of these (French) knights apparently had been negligible; they often failed to meet, and when they did meet, they did not have sufficient mandate to settle the cases, and in fact they had often obstructed the settlement to the great damage of the English. Edward thus asked for a serious resumption of this practice by Philippe.⁴¹ These knights were effectively an Anglo-French equivalent of the Anglo-Scottish wardens of the march, only they were supposed to deal with maritime conflicts, not those on land. Thus, these statements strongly suggest that in terms of conflict, the sea should also be viewed as a march. However, the best example of the concrete use of march procedure in the adjudication of piracy suits is the process of Montreuil in 1306.

THE PROCESS OF MONTREUIL, 1306

A thoroughly researched example of a *jour en marche* for the regulation of piracy is the process of Montreuil-sur-Mer in 1306. This process was the

³⁹ “pur ce qils sont enclos de la grant mer en la marche de toutes nacions, par quoi il covient qils soient toutz jours prestz ils ne seyvent quel hure pur defender eux et lour biens et sauver les chateaux et la terre.” *EMDP*, I, 369.

⁴⁰ *EMDP*, I, 370.

⁴¹ *EMDP*, I, 389–392.

result of the still-outstanding resolution of cases of piracy between English and French subjects from 1292 onwards. Despite the truce between 1297 and 1303 and the peace treaty of Paris in 1303, the settlement of these cases was still pending. At the request of Pope Clement V, Edward I and Philippe le Bel agreed in 1305 to set up a commission to settle these claims once and for all.⁴²

In May and June 1306, Edward I's and Philippe le Bel's commissioners met in the Castle of Montreuil, at that time a thriving port town on the English Channel, to settle by a bipartite arbitration commission the issues of piracy.⁴³

Apart from the still-pending complaints over piracy, matters were further complicated by the fact that since the peace in 1303, the French had been waging war to crush a Flemish rebellion. During this war, French royal vessels under the command of Admiral Renier Grimaldi, and French mariners such as the Calaisien shipmaster Jean Pédrogue and the commander of the French forces in Calais, Oudard de Maubuisson, had been harassing Flemish maritime commerce by cruising along the Flemish coasts, The Narrow Seas and indeed the English east coast looking for and attacking Flemish ships or "neutral" ships trading with Flanders. These French naval operations entailed numerous attacks on English shipping. In the same period, the English had mobilised to crush the Scottish rebellion, which entailed naval actions against the Scots, but these actions apparently also touched French shipping. Furthermore, as a French vassal, Edward had conceded in secret to provide naval support for the French against the Flemish.⁴⁴ The essence of the process was thus to settle the claims and counter-claims of English and French subjects against each other for piracies in times of truce and peace.

The English and the French each appointed two commissioners for the process. The English appointed Philip Martel, king's clerk, professor of civil law and keeper of processes of records of foreign relations, and the

⁴² Cuttino, G.P., *English Diplomatic Administration* (Oxford, 1940), p. 51, Champollion, I, 404 and 424–29, *Foedera 1273–1307*, pp. 900, 936 and 940.

⁴³ Numerous documents for this process exist in the National Archives, under the headings TNA C 47/27/5, C 47/27/6, C 47/29/5, C 47/29/6, C 47/31/19. A list of all the documents with the old Public Record Office headings can be found in *The Gascon Calendar of 1322*, ed. G.P. Cuttino (London, 1949), nos. 616–665, pp. 57–61. I do not intend to do a thorough and detailed survey of the complaints in these files, since they do not differ from the picture already presented in the chapter 2. I will restrict myself to an analysis of the procedure of the process and to the insurmountable problem of the relationship of power between the French and the English kings. To this end, I will mainly follow Cuttino's, Chaplains' and Cheyette's analyses of the Montreuil process.

⁴⁴ *Foedera 1273–1307*, p. 961.

knight John Bakewell. The French appointed Etienne Bourret, sub-dean of Poitiers, and the knight Jean de Ver. They were to form a bipartite commission with the purpose of inquiring into damages and losses suffered to satisfy plaintiffs with a recognised claim and to refer questionable cases to the kings for settlement.⁴⁵

As shown in the previous chapter, the normal way for merchants to obtain restitution were petitions to the king or, if all else failed, to demand the issuing of a letter of marque. This procedure was not a result of law, but rather diplomacy. In contrast, according to Cuttino, "The process of Montreuil was a series of legal cases involving maritime losses brought for hearing and settlement before what amounted to an international commission".⁴⁶ However, the commissioners were not to proceed by French or English law, but rather by equity agreed amongst them, and I agree with Pierre Chaplais that this was effectively a procedure between two marcher-lords and not a trial by sovereign law.

In the process, the plaintiffs had to supply the name(s) of their ship(s), those of the shipmaster(s) and of the owners of the cargo, and the time when the ship left port. Furthermore,

Several facts were to be furnished regarding the actual depredation: the place, and whether it was in sight of others by whom the depredation could be proved; whether it was despoiled off the coast in sight of men on land or of ships at anchor off shore. If the merchandise was removed from one boat into another, sailors who were on board at the time had to testify to this fact. Witnesses were likewise to be produced if the cargo had been seized in port. The remaining information concerned the imprisonment of sailors and the conversion of seized goods into cash. In regard to the former, plaintiffs were to advise the commission of the duration of imprisonment, by whom it was effected, and the means of delivery; that is, 'whether any other merchants of England were in port by whom the seizure of goods can be proved, and whether through a public announcement of them rumour is common in England'.⁴⁷

This procedure does not seem to have been used exclusively at the process of Montreuil; it was probably the procedure applied in any trial over piracy.

There were four types of documents used in the process: general petitions, claims against the French, claims against the English and replications.

⁴⁵ Cuttino, *English Diplomatic Administration*, pp. 22 and 51.

⁴⁶ Cuttino, *English Diplomatic Administration*, p. 52.

⁴⁷ Cuttino, *English Diplomatic Administration*, p. 53.

Of the first category there were only two documents. They were both written by the proctors of the commonalities of subjects of Edward I. These will be dealt with in detail in the last part of the chapter. Thus, I will confine myself here to a few remarks. In the first general petition, the English argued that since the Scots were allied with the French between 1297–1303, the French were to pay for the English losses at the hands of the Scots. This amounted to a demand of several million pounds in restitution, which the French were to pay by principle of collective liability (that is, the French were allied with the Scots, had helped them and consequently had a responsibility for their allies' actions). This claim must have seemed ludicrous to the French—not the least in comparison with the expenses of the Gascon War.⁴⁸ The second general petition was an English declaration of sovereignty over the English Sea which *de facto* meant from the English Channel to the Pyrenees. The English argued that since time immemorial, the English had enjoyed an exclusive right to jurisdiction over maritime conflicts.

The individual English claims were presented in the form of a *libellus*, that is, a statement of the claim of the person, which followed the above-described procedure and in addition to information about the ship, cargo and circumstances of the attack also named the despoilers and where these took the goods after the attack. The claim always ended with a demand for restitution of a certain amount. To this, the defendant almost always replied either by a *contestatio negatiua* (an alibi) or an *exceptio dilatoria* (a delaying action), or both. In *constatio negatiua*, the defendant usually argued that he could not have committed the piracy, since he was somewhere else when the piracy had been committed. Therefore, the defendant pleaded quit of charges or at least the right to a further statement in the case. The *exceptio dilatoria* was a statement with the intent to delay or stall the process. An example of this would be that if the accused were out of the kingdom and could not be reached at the present time, the case had to be postponed until the accused were found and could come to stand trial. This usually resulted in the plaintiff proposing a *repplicatio*, which might be a contradiction of the defendant's reply or

⁴⁸ Cuttino, *English Diplomatic Administration*, p. 54. According to Cheyette, "Sovereign," p. 52, this amounted to £4.2 million. To give an idea of the ludicrous amounts demanded in this complaint, the average English annual expenditure for the Gascon War, 1294–1299, was 238,000 l.t. (£59,500), which amounted to 83.8% of the total estimated English annual income, while the average French annual expenditure in this war was 346,000 l.t. (£86,500), that is, 61.5% of the total estimated French annual income. Vale, *Origins*, pp. 281–282.

an offer to bring forth further evidence to the accusation. However, most often the result was that the proctor of the plaintiff had to postpone his cause in order to inquire further into the matter.⁴⁹

Only once did the French defendants come with a real reply. This was the case of the plunder of the ship *Michel de Arwe*. Pédrogue and Maubuisson admitted to have taken the ship but not in the way described by the plaintiffs. They stated that Edward I (correctly) had prohibited the English from aiding the enemies of France (including trading with them) and that they had entered the ship without use of violence where they had found letters proving that the ship had Bruges as its destination. Therefore, they promptly seized the ship on charges of smuggling and imprisoned the crew. All but one of the prisoners managed to escape from prison, however. According to the French, this proved their culpability, and the ship and goods had been forfeited to Philippe le Bel and not to Pédrogue or Maubuisson for their personal profit.

The French claims against the English followed the same line, but we do not have the replies of the defendants. All in all, the French claimed losses due to piracy for £19,537 6s. 10d. whereas the English only claimed £1,882 18s. While the English figure is considerably lower than the French, we must remember that the total of English claims is unknown, since some of the records for this process have not survived,⁵⁰ and it seems as if Cuttino omitted some documents in his account, amongst them the Gascon petitions, while others have been damaged beyond legibility.

The *repplicatio* were the English plaintiffs' replies to the French defendants' statements. Only two of these are known, and they were addressed to Oudard de Maubuisson and to Renier Grimaldi. Oudard claimed that he acted under orders of the French admiral in the seizing of the ships and that he had surrendered the cargo to the French king. The English, however, would not accept this and instead accused him of plunder of English ships for his own profit. Accordingly, it was not legitimate war-time seizures but common robbery.⁵¹ However, Oudard questioned the veracity of details of the claims and thus the validity of the claim itself, and he demanded extra proof. Renier Grimaldi simply questioned the evidence of the claims and pleaded innocence.

⁴⁹ Cuttino, *English Diplomatic Administration*, pp. 56–57.

⁵⁰ Cuttino, *English Diplomatic Administration*, pp. 55 and 58.

⁵¹ Cuttino, *English Diplomatic Administration*, p. 59.

These negotiations touched upon the central issue in the process: were the French actions at sea legitimate military actions where French mariners in royal service did their duty and carried out royal orders to stop smugglers and enforce an embargo, or were they abusing their commission to indiscriminately attack all foreigners for their own profit? Obviously, the French claimed the former while the English the latter. The principal French officers indicted in this process were Renier Grimaldi, Jean Pédrogue, and Oudard de Maubuisson, but at least sixteen other French shipmasters were also accused. While these men were all in royal service against the enemies of France, the actions against the English were unmistakably (to the English) piracy, that is, robbery at sea for personal profit. Furthermore, the English complaints show that the French were not only cruising the Flemish coast but also as far north on the English coast as Scarborough,⁵² thus in no provable way near Flanders, and at least some of these actions unmistakably resembles piracy.

The process started out well, but on 15 June it came to a halt. The commissioners met and made a deposition regarding their differences to a public notary. The French stated that they were ready to continue the process but that they also needed to go to Normandy, Poitou and Brittany to hear the complaints there to make sure that everyone was heard. They would then present these complaints to the English commissioners. Afterwards, they would go to England and Ireland to hear and receive complaints there. Only then could they proceed to a final settlement. This apparently came as a surprise to the English, who complained that they had already collected all English complaints, and in any case that they had to consult Edward I before they could proceed and accept the new French proposition. The process was left in status quo and the splitting up of the commission, but the commissioners were to reconvene on 15 October of the same year.⁵³

This was effectively the end of the process, because from then on Philippe le Bel insisted that the commission should review the whole relationship of the English kings' vassalage to the French kings. For his part, Edward I wanted only to investigate the cases of damage between the subjects of the two kingdoms and wanted to have two separate commissions, one for losses preceding the Gascon War and another for losses incurred from 1297 to 1306. Thus, Edward tried to restrict the case to the issue of

⁵² Cuttino, *English Diplomatic Administration*, pp. 160–168.

⁵³ Cuttino, *English Diplomatic Administration*, pp. 62–63.

piracy and restitution, while Philippe tried to use the cases as a lever to redefine and strengthen his authority over the English king. The English envoys then proceeded to complain to Pope Clement V that the French had been unwilling to award damages and had complicated manners unduly; that Philippe le Bel had in effect protected the defendants; and that his commissioners were partial and had helped the French defendants. The conviction of the accused French was in effect impossible. Furthermore, the English claimed that the French demand of hearing all complaints in France could not be seen as anything but a deliberate obstruction of the case, and the French defendants' claims of alibis in many of the complaints were insincere.⁵⁴ By 15 October, Philip Martel had died, but John Bakewell went to Paris to resume the process, but he could not find the French commissioners, and after having publicly announced the failure to convene he returned to England.

Two cases of the many presented at Montreuil display the problems that this breakdown raised for the victims of French piracy. In the first case, the merchants Geoffrey Turbok of Lynn and Walter de Gosewyk of Berwick-upon-Tweed complained to Edward I and his council in a petition dating to the autumn of 1306 or the winter of 1307 that Philippe le Bel had delayed and defaulted in doing justice to them for French piracy during the truce. Therefore, they asked Edward I to help them receive satisfaction for the goods lost and their expenses according to Law Merchant.⁵⁵ Some time later, their petition was presented at Parliament in January 1307, where the merchants stated that the piracy and the circumstances under which it had happened had been admitted by Pédrogue, who, however, claimed that the goods had been seized for the profit of the French king and not his own. Geoffrey furthermore stated that he had been in Paris in October, the same time as Bakewell, and like him he had not been able to meet the French commissioners either. The merchants thus claimed restitution according to Law Merchant. Interestingly, however, the final English decision was that the petitioners could not be helped.⁵⁶ At that point, the English had apparently realised that any sort of settlement of these out-standing claims was unlikely to take place in the foreseeable future.

⁵⁴ Cuttino, *English Diplomatic Administration*, pp. 65–66.

⁵⁵ TNA SC 8/256/12792B.

⁵⁶ TNA SC 8/256/12792C.

This did not dissuade other petitioners. In 1300, Pey de Saint Pol, a Bayonnais merchant, had loaded a ship with wool at Lynn to be taken to Saint-Omer, when the ship was attacked by Pédrogue. The French killed the crew and took the ship with the goods to Haut in the county of Dreux. The total losses for Saint Pol were £350. Apparently, Pédrogue admitted to this and was presumably to make restitution to Saint Pol, but despite Pédrogue's admission of the piracy, the French commissioners at Montreuil denied restitution. The documents for Saint-Pol's case range from the end of the 1290s to 1315, and nothing indicates that restitution was ever obtained.⁵⁷ It is not surprising, however, that the French commissioners refused restitution; if this had been granted in Saint Pol's case over a French soldier and war-hero, it would have made the French actions at sea in general look like piracy and not like legitimate wartime operations. This point does not seem insignificant in the final breakdown of the commission. Thus, both of these cases clearly show that the French did not, in effect, commit to the process.⁵⁸

Cuttino observed that the procedure and the rules for arbitration were borrowed from Roman and canon law, and that furthermore the procedure of the process of Montreuil was heavily influenced by the procedure the *Parlement de Paris*, where the arbitrators seem to have been merely referendaries of the *Parlement*, not judges. Indeed, some of the same complaints were later heard in *Parlement*. According to Cuttino, this influence was confirmed by the composition of the commission. He noted that commissions of the *Parlement de Paris* in civil or a mixture of civil and criminal cases always had one cleric and one lay member. Strictly criminal cases, however, had two lay members and no clerics, since these could not order corporal or capital punishment.⁵⁹

Chaplais, however, points out that the procedure adopted for the Montreuil process was in fact an old and time-honoured way for the French and the English to settle their differences. From the twelfth to the fourteenth century, when Anglo-French conflicts occurred in times of truce, they were amicably resolved according to the law of the marches. This

⁵⁷ TNA SC 8/289/14432, Champollion, II, 30, SC 8/273/13633, SC 8/287/14312, Cuttino, *English Diplomatic Administration*, p. 61, n. 4.

⁵⁸ This case was still pending in 1321. At that time, Pey de Saint Pol had died while pursuing the case. *CCR 1313–1318*, pp. 181–182 and *CCR 1318–1323*, pp. 390–391.

⁵⁹ Cuttino, *English Diplomatic Administration*, p. 51, n. 9.

institution was known under the name of *dictatores* or *conservatores treugarum*.⁶⁰

While this may also have been the procedure for the *Parlement*, it was a procedure predating the Parisian *Parlement*. Instead, Chaplais pointed to the similarities between marcher conflict settlement as described above and the procedure at Montreuil. The naming of a few persons with the power to negotiate a settlement based on equity rather than law was indeed the way in which conflicts and complaints were resolved in the marches of England and France. In defence of this interpretation of the process of Montreuil, Chaplais listed the similarity of procedure between the process and the *journées de marche*, the choice of the town of Montreuil in lying on the Anglo-French march on land as well as on sea, and the title given the commissioners. The prevalence of reprisals in terrestrial marches in particular, as well as in maritime quarrels, led Chaplais to argue that this was essentially the same thing.⁶¹

However, in regard to the French's insincere commitment to a settlement, Cuttino and Chaplais agreed. Both claimed that it was clear that the French obstructed the process and never really wanted it to work. Furthermore, Chaplais stated that the French commissioners' authority was, from the outset, more theoretical than practical, and they both stressed the fact that the Montreuil process was only an amiable conference on the surface, since the French commissioners were not neutral but acted more like lawyers for the accused French than as impartial judges.⁶² In this regard, the position of Cuttino and Chaplais seems a bit naïve, however, for it was quite unrealistic to assume that the commissioners from either party would actually be neutral. This is also why the English proposals for a marcher process always contained the proposition that if the arbiters could not agree amongst themselves, the case was to be settled by the kings alone. Indeed, Dean and Gauvard have pointed out the common problem in the Middle Ages of corrupt and partial judges.⁶³ This was an

⁶⁰ "Du XII^e au XIV^e siècle cependant, les conflits franco-anglais, lorsqu'ils se produisaient en temps de trêve, étaient réglés à l'amiable suivant la loi des marches: c'était l'institution connue sous le nom de dictatores ou conservatores treugarum." Chaplais, "Règlement des conflits," p. 278.

⁶¹ Chaplais, "Règlement des conflits," pp. 277 and 279.

⁶² Cuttino, *English Diplomatic Administration*, p. 69, Chaplais, "Règlement des conflits," pp. 279–280.

⁶³ Dean, Trevor, *Crime in Medieval Europe* (London, 2001), pp. 34–41, Gauvard, Claude, "Les juges jugent t-ils?," in C. Gauvard, *Violence et ordre public au Moyen Âge* (Paris, 2005), pp. 116–130.

inherent weakness in the march dispute settlement institution, since, in order to function properly, it had as a prerequisite that both parties and judges were sincerely committed to a settlement. In practice, it was unrealistic to expect impartiality. The French partiality was to be expected as the men accused were soldiers in the French king's service. They could even argue that they were innocent for one reason or another. These men were French war heroes regardless of whether they had committed piracy against innocent neutrals or not.

This leads to the question of why the French were not really committed to the process and indeed sabotaged it? The resolution of maritime conflicts by the application of a march procedure was not unique to Anglo-French relations, nor was it a model destined to fail. Indeed, in the next chapter I will demonstrate how the English successfully applied this model for settlement of the maritime conflict between the Castilians and the Bayonnais. On the whole, it was a good and applicable model, and in principle the French were not opposed to it. Indeed, they followed it in negotiations with the Aragonese in 1312–13.⁶⁴ What really was at stake, and the reason why the French refused to adhere to the model, were the issues of sovereignty and vassalage.

SOVEREIGNTY: THE DUKE OF GASCONY, THE KING OF ENGLAND AND THE KING OF FRANCE

The medieval idea of sovereignty⁶⁵ derived from the authority of the Roman emperors, and through the Carolingians it was transferred to the Holy Roman Emperor. The notion of sovereignty entailed that the emperor had jurisdictional powers and authority over all other kings of Christendom or, at the very least, those who had been part of the Roman and Carolingian empires. The core of the imperial notion of sovereignty was that: "this supreme authority was indivisible and inalienable: the emperor

⁶⁴ Strayer, *Reign*, pp. 26–30.

⁶⁵ "The term sovereignty generally denotes the position of supremacy of somebody, or something, in respect of somebody, or something else." Maiolo, Francesco, *Medieval Sovereignty* (Delft, 2007), p. 79. Thomson, *Mercenaries*, p. 13: "Sovereignty organizes global political space into territorially bound, 'juridically mutually exclusive and morally self-entailed domains'. It is based on 'an ethics of absolute exclusion'."

was 'lex animata', legality and justice personified—every human creature was subjected to his will".⁶⁶

While this claim never seems to have been completely uncontested in the early and High Middle Ages, it was not until the thirteenth century that it really came under attack, starting formally with Pope Innocent III, who in 1202 declared that in temporal matters the French king had no superior. During the thirteenth century and especially in last quarter of the century, the French kings increasingly contested the emperor's sovereignty. The issue was whether the French king was sovereign *de jure* or just *de facto*, the latter of which seemed increasingly indisputable. Against the imperial jurists, the French jurists stated with increasing insistence that the king enjoyed the same legal and political status within his kingdom as the emperor did in his territories, thus stating a *de jure* independence from imperial authority and making the king the equal of the emperor.⁶⁷ The French jurists asserted the French king's status as *imperator in regno suo*, meaning that all the privileges and rights applicable to the emperor by virtue of his position were also enjoyed by the French king.⁶⁸ One justification for this was the definite territorial limits of the Empire and the French kingdom: "The basic justification for these territorial limitations of empire and kingdom was found to be the French king's *peaceful enjoyment of his possessions* [my italics]; the prescriptive acquisition of the king's rights was claimed to be the title for his independence".⁶⁹ This formulation of the French king's claim to sovereignty is important for the English declaration of sovereignty over the seas, as we shall see below. To conclude on the issue of sovereignty and the emperor, by the second decade of the fourteenth century, the royal claim to universal sovereignty finally seems to have become a reality *de facto* as well as *de jure*, not just for the French, but for most other European kingdoms.

The medieval notion of sovereignty did not just refer to raw power (*potestas*), however, but more to authority (*auctoritas*). Indeed, the prerequisite for ruling and enjoying sovereignty was *auctoritas*, deriving either from a political community or from God (but in a sense both). Either way,

⁶⁶ Ullmann, Walter, "The development of the medieval idea of sovereignty," *The English Historical Review*, 64 (1949), p. 3.

⁶⁷ Ullmann, "Idea of sovereignty," pp. 9–10.

⁶⁸ Ullmann, "Idea of sovereignty," p. 15.

⁶⁹ Ullmann, "Idea of sovereignty," p. 14.

the prince was conferred with the authority to use his power by somebody else.⁷⁰ Francesco Maiolo thus observes that:

A widely accepted hypothesis is that in medieval sources, the term *iurisdic-tio* appeared as synonymous with *dominium*, as well as *imperium*, and that in both cases it denoted *potestas*. These heterogeneous terms are gathered in the semantic area of legal and political discourse that today is occupied by the idea of sovereignty.... In the Middle Ages, jurisdiction played the role of 'synthesis of powers', and, given the needs of feudal society, was one of the most versatile legal tools to exploit. This notion somehow reflected more general concerns, like the concern about the problem of hierarchies of power and their normative foundation.⁷¹

Technically, for the relationship between the French kings and their vassals (including the duke of Gascony, that is, the king of England), the situation is best described by the argument promoted by Pierre de Mornay, bishop, jurist and advisor to Philippe le Hardi and Philippe le Bel. In 1278 he argued concerning the king's right to the ultimate court of justice that:

Because the king thinks himself a prince, he could grant a rescript to his subjects on whatever matter he wished, provided that the rights of any third party were not completely destroyed. Since the king did not subvert the rights of the barons or other subjects, he could take away their right of appeal.⁷²

This clever argument left the nobility's privileges and prerogatives formally intact, while at the same time giving the king the right to override these in his capacity as the supreme judge of any dispute in his kingdom.

I shall now take a closer look at the English declaration of sovereignty. The English claim to sovereignty over the sea of England (that is, the Channel and the French Atlantic coast) was presented by the proctors of the king of England, the nobles and the prelates, and the communities of England and all English royal subjects to the commission at Montreuil.⁷³ The claim was that the English kings had "since time immemorial been in the peaceful possession of the sovereign lordship of the Sea of England and the islands in that sea".⁷⁴ This claim to peaceful possession of the sea

⁷⁰ Maiolo, *Medieval Sovereignty*, pp. 70–71.

⁷¹ Maiolo, *Medieval Sovereignty*, p. 143.

⁷² Pennington, Kenneth, *The Prince and the Law, 1200–1600* (Berkeley, 1933), p. 100.

⁷³ *EMDP*, I, 367–369.

⁷⁴ "du temps qil ny ad memoire du contraire, avoient este en paisible possession de la souveraine seigneurie de la meer Dengleterre et des isles esteans en ycele." *EMDP*, I, 367.

was identical to the French king's claim to sovereignty over his kingdom mentioned above, and furthermore was a recognised fact (according to the English) by Genoa, Catalonia, Spain, Germany, Zeeland, Frisia, Denmark, Norway and the Empire in general. In other words, it was recognised by all mariners sailing the northern seas—except, of course, the French. Thus, the English had the sufficient *auctoritas*. However, the claim of sovereignty, while expressed as dating to time immemorial, actually had a very clear starting date, namely the reign of King Richard the Lionheart. This reference is important, because during his reign (and his father's) the king of England actually controlled the whole of the territory along the French coast from Gascony to Flanders. Consequently, all policing and settlement of disputes in this area naturally fell under English royal jurisdiction through their officers. The fact that we can pinpoint Richard I as the king to whom the English referred is, however, because of the Gascons' claim in 1331(?) that the *Rôles d'Oléron* were given by Richard I.⁷⁵ Thus, the English could actually prove that the English kings had traditionally been the law-givers and in possession of jurisdiction over matters in these waters. The fact that this claim was thus applicable not only to the English Channel, but to the whole of the French west coast as well, is shown by this reference; furthermore, it seems supported by an agreement from 1320 between Edward II's council and the envoys of the count of Flanders, where the waters off Crozon, that is, Western Brittany, are called *la mer Dengleterre*, and the English king's maritime sovereignty here was confirmed by the Flemings.⁷⁶ While in the introductory comments to this document Chaplais stated that this was a reference to the English Channel based on the discussion above, I will maintain that the claim, at least from a theoretical point of view, encompassed the whole west coast and not just the Channel.⁷⁷ The English further claimed that even the French

⁷⁵ While our earliest direct reference to Richard I as giver of the Oléron laws is from about 1331 (Chaplais "Reglement des conflits," p. 294), most of the historians who have examined the subject of their origin agree this really seems to have been the case. See Ward, *Medieval Shipmaster*, p. 20, Chaplais, "Reglement des conflits," p. 276, Krieger, *Ursprung*, p. 41, Pardessus, *Collection des lois*, I, 289.

⁷⁶ *Foedera 1307–1327*, pp. 146 and 149, *EMDP*, I, 414. This document referred to English sovereignty over the seas, including the Breton waters ("il est seigneur de la mer et la dite roberie fut fait sur la mer denz son poer"). It is unlikely that this was the general opinion in the northwest in the Middle Ages, however. The French most certainly contested it, and the only immediate reason for the Flemings to accept it was that it would provide them with restitution.

⁷⁷ *EMDP*, I, 414. Interestingly, Chaplais states in "Reglement des conflits," p. 271, that this sovereignty was claimed from the Pyrenees to Flanders.

had recognised this sovereignty in the Treaty of Paris, 1259. The general petition of 1306 effectively stated that, through their admirals, the English kings had the lawful right to high and low justice at sea, to ensure the peace at sea and to police it against prospective pirates.⁷⁸

Apart from this claim to sovereignty, the petition contained three other points. The first was that the kings of England and France had entered an alliance (in 1303) of reciprocal support against all who would infringe upon their “franchises, liberties, privileges, rights, jurisdictions and customs”.⁷⁹ While this seems to have been derived from the English kings homage for Gascony to the kings of France, here it was presented as if the kings were equals, that is, two sovereigns and not a lord and a vassal.

The second point was a complaint over Renier Grimaldi, the admiral of France, for his actions at sea against English merchants during the war with Flanders. He had attacked English ships, taken their goods for the French king and had the mariners imprisoned. Not only had the admiral acknowledged this in writing, but he also claimed that it was part of his commission of admiralty. He thus asked to be acquitted. Since this was a usurpation of the English king’s juridical prerogatives and an infringement on the English king’s sovereignty, Grimaldi had caused great damage to the English. The procurators therefore demanded hasty liberation of the prisoners and their goods, and the prisoners were then to be presented to the English admiral, who had rightful jurisdiction. Furthermore, the English demanded that Grimaldi should be condemned to make satisfaction for all the damages he had caused, or, in case of default, the king of France was to cause it, since Grimaldi was his officer. After satisfaction had been made, Grimaldi should be punished for the damages, his contempt for the Anglo-French treaty and indeed for the usurpation. This punishment should be so severe that it set an example for the future.

Thirdly, in time of war against the Scots, no English mariner should answer to any authority other than the English admirals, and they could not be taken to court for actions against Normans and Bretons for any actions done at sea in time of the truce and the peace. In other words,

⁷⁸ “especialment par enpeschement mettre et justice faire et seurte prendre de la pees de tote manere des gentz usanz armes en la dite meer ou menantz neefs autrement appareillees ou garniz qe nappartenoit au neef marchande et en tous autres points en queux homme peut avoir reasonable cause de suspicion vers eux de roberie ou de meffaitz.” *EMDP*, I, 367–368.

⁷⁹ “franchises, les libertes, les privileges, les droiz, les droitures et les custumes,” *EMDP*, I, 386.

only English officers could judge English subjects—no matter what the French said.

In opposition to Cuttino's and Chaplais' assessment of the French as the ones solely responsible for the breakdown of the Montreuil process, Frederic Cheyette argues that the English were far from blameless. Focusing on the outrageous demand for millions of pounds in reparations for the losses caused by the Scots, the assertion of English sovereignty at sea and the demand for punishment of Grimaldi, Cheyette claims that the English approach to the process and the claim of sovereignty over the seas was rather to assert that "the English claims against the French should be heard by an English court without the interference of the bipartite commission. The petition's purpose was to deny the arbiters any competence".⁸⁰ Accordingly, Cheyette argued that the English claim of sovereignty was really just an action to disqualify the commissioners, and that it was in fact an English counterattack to the French claim of sovereignty. The problem was that while the kings of England and France were equals in times of war and truce due to feudal law, in peace time, the French king was the legitimate superior of his vassal, the duke of Gascony, and thus also the superior of the king of England.⁸¹

So, how should we understand these English claims of several million pounds in restitution, of sovereignty over the seas and of the punishment of the French admiral? Were they a sincere demand or rather a bargaining tool in order to bring the kings of England and France to a level of equality? The first thing that we must bear in mind is that the demand was not actually put forward by Edward I himself but rather by his subjects. While this seems to have been a clever device to exculpate Edward of any deliberate obstruction of the process, and the demand can hardly have displeased the king, in all likelihood his jurists were behind the formulation. However, by having his subjects named as the authors of the document, Edward could permit himself to relinquish some of its demands and claim that he was acting on the will of the people. In that regard, it must be seen as a bargaining tool rather than a sincere demand. To the French commissioners and Philippe le Bel, however, the demands must have seemed so outrageous that they could hardly have been taken as anything but an extreme English overstatement of their demands and consequently an attempt to obstruct the process. While this may have

⁸⁰ Cheyette, "Sovereign," p. 52.

⁸¹ Cheyette, "Sovereign," pp. 52–53.

fitted rather well with Philippe's plans, it actually left little room for the French commissioners to negotiate, since by these demands the English were trying indirectly to circumvent the relation of power between the two kings, something that Philippe le Bel would not allow. The conclusion must be that, in their attempt to gain a position of equality with the French, the English had overplayed their hand. Their demands were simply too exigent to work properly as a bargaining tool. Thus, while Edward seemed to be sincere in his wish for a settlement of the piracy cases by the process, these claims made the English lay just as much blame on the English as the French for the failure of the process. The English claims of sovereignty were not an expression of actual English control of seas or war on pirates, but a political response to French sovereignty. While piracy was the cause of the process of Montreuil, it was not the real objective of the English commissioners.⁸²

In any case, the English declaration of sovereignty over the sea was obviously unacceptable to the French, and in a case of piracy against Rochelais merchants in 1311, Philippe le Bel declared that it had happened "in mari infra districtus nostros", that is, in French controlled waters.⁸³ Consequently, Philippe demanded the extradition of the pirates so that they could be prosecuted at a French court of justice. This case shows that Philippe by no means accepted sole English maritime jurisdiction, nor for that matter that the sea was under English sovereignty. For his part, Edward II denied the extradition but promised to put the mariners before an English court. Only if the English laws were insufficient would he allow extradition, but needless to say, Edward assumed them more than adequate.⁸⁴

The reason why the process of Montreuil seemed doomed from the outset can be summed up thus: the English, supported by Gascon customs for marcher-law in the settlement of conflict in border areas and a version of the *Rôles d'Oléron* for conflict at sea, claimed settlement by marcher procedure, since this entailed that the kings of England and the kings of France would treat with each others as equals.⁸⁵ The irreconcilability of these claims in terms of maritime conflicts was in no small part due to the French king's tendency to assimilate crimes committed at sea by the English king's Gascon subjects against French mariners to a purely feudal

⁸² Rodger, *Safeguard*, pp. 78–79.

⁸³ *Foedera 1307–1327*, p. 146.

⁸⁴ *Foedera 1307–1327*, pp. 146 and 149.

⁸⁵ Chaplais, "Reglement des conflits," p. 273.

conflict where the French king was the only and supreme judge.⁸⁶ For the French, any claim of sovereignty pertaining to French affairs was completely unacceptable. While the French kings were not opposed to the practice of handling conflict along the lines of marcher settlement, they were opposed to *journée en marche* with the English, since it would make the two kings equals, a prerequisite for a functioning march procedure. As long as the English king was the French king's vassal, the French would never agree to treat with them on the same footing.⁸⁷

This chapter has thus provided part of the reason why pirates were not prosecuted. Apart from the troubles of identifying whether the persons indicted had indeed committed the piracy or not, the Anglo-French piracy process of Montreuil was in the end more concerned with foreign policy, and the feudal relationship between the kings always took precedence over the individual cases of injustice. For the process of Montreuil, the procedure applied also makes it more than likely that what was used as legal procedure was the one of the marches, only now for the sea. This effectively rendered the sea into a march. This meant that the maritime communities waging war in effect were to be seen as marcher lords with the right to wage war like their Gascon counterparts.

⁸⁶ Chaplais, "Reglement des conflits," p. 271.

⁸⁷ Chaplais, "Reglement des conflits," pp. 278, 281 and 284.

CHAPTER SEVEN

PEACE AND PIRACY CONTAINMENT

In the previous chapter, we saw how adjudication of disputes at sea was handled by an arbitration system derivative of the procedure used for dispute settlement in the marcher areas. We also saw how the emergent application of theories of sovereignty disrupted this procedure. Because of the vassalage of the English kings to the French kings, the latter refused to make a sincere commitment to this method of dispute settlement, since it had as its prerequisite the equality of status of the negotiating princes. This was, however, an exception to an otherwise well functioning means of making peace between warring mariners in northern Europe. In this chapter, I will analyse the procedure of peace negotiations and settlements in the period from the late 1270s to the 1320s.

The focus of this chapter is the English royal negotiations and arbitration in maritime disputes, domestic as well as foreign, with Flanders, Portugal and Castile, and with the French before and after the Gascon War and the process of Montreuil.

It is no coincidence that England is the focus given her geopolitical position in the crossroads of the trade between northern and southern Europe. In addition, England's rather large merchant marine made her party to more maritime disputes than any other northern European kingdom in the period studied. This makes it easier to discern the patterns, as well as changes, in the handling of maritime wars. Finally, the English material provides the opportunity to follow especially bellicose ports: Bayonne, the Cinque Ports, Great Yarmouth and their various disputes and wars amongst themselves, as well as with especially the Normans and the Castilians of Castro Urdiales, Santander and Laredo.

In these peace negotiations and treaties there were two considerations which had to be reconciled in order for the peace treaties to come into effect. The first was the wars between the two groups of mariners, the second was the relationship between the kings involved in the dispute as arbitrators for their subjects. The problem was that the interests of the kings and those of their subjects did not necessarily coincide. It was perfectly possible for the kings to reach a settlement that by no means satisfied the mariners, thus only in name quelling the conflict. These treaties

reveal not only how peace was concluded but also the character of maritime war and the independence of the mariners and ports.

PEACE AND ORDER IN THE MIDDLE AGES

Medieval theories of peace—like those of sovereignty—were initially based on the idea of the condition of security in the Late Roman Empire, specifically the Christianized version of the *Pax Romana*. In the theories of the early and High Middle Ages, this worldly peace was a reflection of heavenly peace, but as the temporal world was inherently sinful, it could never attain the same level as the heavenly one. Nonetheless, heavenly peace was the ideal to strive for in the temporal world, and this was reflected in the objectives of the individual treaties.

Thomas Renna has argued about the development in the concept of peace in Western Europe from 300 to 1150 that there were initially three distinctive types of peace: monastic (a personal and utopian peace resting upon the deeds of the individual), ecclesiastical (true peace rests with the Church and the pope) and imperial (initially a Christianised form of the *Pax Romana*). Eventually monastic peace was discarded, and in the eleventh and twelfth centuries, the ecclesiastical peace of the *Pax Dei* movement, which argued for the defence of the Church for the establishment of the reign of Christ on Earth, was fused with the imperial concept, where the emperor and the king were the final guarantors of the safety and defence of Christians. What these three approaches had in common was the return to the right order and the restoration of the proper harmony of God's creation with the heavenly city as the model. From about 1200, the ecclesiastical peace of the *Pax Dei* movement and the imperial Carolingian peace had fused into a concept of public peace promoted by the kingdoms of France, England, Germany and Spain.¹ In this concept, peace was the restoration of harmony on the divine level, but it was also a state of justice and law. These two levels of peace, the divine and the temporal, were constantly associated in the later Middle Ages.² This was guaranteed by the king as *rex gratia Dei*, and thus he was responsible for promoting and protecting the peace so that his subjects could live peacefully and pursue their occupations as God had intended.

¹ Renna, Thomas, "The idea of peace in the West, 500–1150," *Journal of Medieval History*, 6 (1980), pp. 143–167.

² Offenstadt, *Faire la paix*, p. 63.

This was in essence the primary concern of every medieval ruler, and it was what actually defined a state of peace. A novelty in the later Middle Ages was the increased focus on the importance of peace not just to assure the occupation of the three traditional *ordines* of the Middle Ages, namely those who pray, those who fight (that is, protect) and those who work (the land), but in addition the merchants, those who trade. In the discourses on peace in the period, it was argued that peace should be strengthened for the prosperity of the merchants, since more than any other occupation trade was dependent on a state of general security throughout the realm for the safe transport of goods over long distances. Thus, unhindered trade came to be the sign of order and peace.³

For the later Middle Ages Nicolas Offenstadt, based in part on a more general study by Jörg Fisch,⁴ has identified several components in the peace treaties. The final objective of any peace treaty was, of course, to *restore order*. However, to obtain order, the two key notions of *amnesty* and *amnesia* had to be implemented. These notions were part of a discourse of peace which functioned on a concrete as well as a symbolic level. In this discourse, the different agents played carefully choreographed parts, where the kings pardoned, the guilty were granted remission, the despoiled returned to their ordinary lives, the warriors forgot the grievances and deeds committed, the prosecutors became silent and a select few evil-doers remained excluded as scapegoats, thus symbolically bearing the brunt of the general evils committed during the conflict. Thus, harmony and order was restored.⁵

Therefore, to obtain peace, a certain measure of general amnesty had to be applied for past acts of aggression, and the parties in the dispute had to “forget”⁶ these actions deliberately, in other words an act of “forgive and forget” even though these terms are a bit too general to confer the precise meaning in this context. The most important consequence of the willed amnesia was that no blame was assigned, no punishments were decided and in particular, no punishments were carried out.⁷ However, the peacemakers in the Middle Ages were not naïve, and a prerequisite for a successful application of amnesty and amnesia was due restitution

³ Offenstadt, *Faire la paix*, p. 66.

⁴ Fisch, Jörg, *Krieg und Frieden im Friedensvertrag* (Stuttgart, 1977).

⁵ Offenstadt, *Faire la paix*, p. 50.

⁶ By Fisch called “unwillkürliches und gewolltes Vergessen”, which seems to be the most precise description of what is demanded in order for the peace to work. Fisch, *Krieg*, p. 36.

⁷ Fisch, *Krieg*, p. 50.

for any seizures done before (and indeed sometimes during) the war up until the truce. Once the peace had been concluded, the government needed to control the way in which the previous adversaries spoke about each other in order to secure both the peace and especially the amnesty and amnesia, since words kept the flame of enmity alive. Offenstadt calls this the control of *paroles*. Finally, the peace negotiations could never be seen as isolated in time and space, but rather, as we saw in the process of Montreuil, past precedence and decisions were invoked, and renegotiated during the peace procedure in question. In other words, peace was serial.⁸ Thus, in a sense a peace was never final, but rather part of an ever ongoing process drawing on past precedence to regulate future behaviour. All of the above-mentioned, except for the control of *paroles*, were explicitly present in the peace treaties analysed below.

However, contrary to these lofty ideals of the theologians and lawyers, the older concept of vengeance was still very influential on the disputes and their settlement. This contradiction has been described by T.B. Lambert thus: "The rather utopian ideal of Christendom as, in effect, one large family united in peace, could clearly never entirely displace older and much more entrenched ideals of protection and honour, shame, and vengeance".⁹ In practice this meant, as Hyams has pointed out, that

the challenge to principals on both sides of the dispute, and especially for their counselling friends, is how to minimize the overall cost of a satisfactory resolution of the issues in such a way as to restore with maximum speed the working equilibrium necessary for the world to get on with its life.¹⁰

The discrepancy between the theory of peace and the harsh realities therefore reflects the possible conflict between the interests of the mariners and those of the kings. While the kings, for the most part, were not emotionally engaged nor had suffered any personal grievances in the mariners' wars, the mariners for their part had suffered insults, extreme predicaments and the loss of property, friends, family and countrymen. This generated anxiety, anger and a lust for vengeance, something which was rather difficult to simply forget unless the treaties took their concerns and grievances seriously.

⁸ See Offenstadt, *Faire la paix*, chapter 2.

⁹ Lambert, T.B., "Introduction: Some approaches to peace and protection in the Middle Ages," in T.B. Lambert and D. Rollason, eds, *Peace and Protection in the Middle Ages* (Toronto, 2009), p. 9.

¹⁰ Hyams, "Feud in the High Middle Ages," p. 163.

In the following, I will present three different, yet intimately related types of maritime peace. These are domestic peace treaties amongst subjects of the English king, peace treaties between the English king and Continental rulers, and finally the Anglo-French treaties which were complicated by the lord-vassal relationship. While the outstanding disputes to be solved were between mariners, in almost all the cases the English king and his officers played an important part in the negotiations and the ratifications of the treaties.

BAYONNE, THE CINQUE PORTS AND GREAT YARMOUTH

In 1276, following a longstanding conflict between the Bayonnais and the mariners from the Cinque Ports, and between the Bayonnais and the mariners from Great Yarmouth, negotiations for a settlement were commenced with Edward I's intervention, probably to secure his military campaign against Wales. A bipartite commission was appointed with two representatives from each party to negotiate the terms of peace.¹¹ However, royal officers provided the framework for the negotiations, and royal officers (local bailiffs) and individual shipmasters were to act as executors of the stipulations of the treaty. Furthermore, the agreement was to be ratified by the king, and he stood as the ultimate guardian of the peace and as the punisher of trespassers in the treaty agreed at Hythe on 7 January 1277. The treaty between Bayonne and the Cinque Ports constitutes the model for my analysis of English maritime peace negotiations and treaties, both domestic and foreign ones.

First of all, the treaty stated that all robberies, injustices, crimes, killings and woundings¹² were acquitted and forgiven from the date of the ratification, and that from that day the parties were agreed to uphold and maintain the peace. The treaty started with a proclamation of general amnesty and probably implicitly amnesia, since the mariners swore to keep the love (*amour*) and peace, that is, by letting love take the place of the negative feelings of rancour and anger.

The remaining stipulations of the treaty addressed future crimes and breakers of the peace. If a murder was committed, the murderer was to suffer capital punishment at the same place as the murder had taken place

¹¹ CCR 1272–1279, p. 420.

¹² “roberies, tortz et tutz trepas, mortz, les occisions e les playes.” Goyheneche, *Bayonne*, p. 533.

or as close as possible. Anyone who defended or aided the murderer was to suffer the same punishment. If the murderer escaped and if anyone from either party kept him in his ship, galley or town and refrained from giving him up to the (royal) authorities, he was to pay a fine of 100 l.t. to the family of the deceased. If a mariner wounded another mariner, the malefactor was to have his hand severed in the same side as the wound was caused and, as with murder, if his mates defended him, they were to suffer the same penalty. Damages done with fists, a flat hand or a sword (*épee*—sic!)¹³ were fined 100 s.t. payable to the ship- or galley-master in the place where the damage was done, or if, in a town, to the local lord. A possible meaning of the payment to the shipmaster could be that this was intended for disputes arising at sea—probably while at anchor or in foreign ports.

As for the actual finding and apprehension of the malefactors, the ship/galley-master or the wounded and his companions were given permission to unhindered search of any ship where they suspected the malefactor to be hiding. If this happened in ports, the local bailiff had the same right as the master to search hostels, ships and galleys. If the malefactor could not be found, the master and four of the malefactor's companions had to swear on the saints that they did not know where he was, and no ship nor any of the parties were permitted to sail with the malefactor nor keep company with him until he had been punished.

Debt and debt evasion seems to have been part of the origins of the conflict, as well as a continuous problem of maritime commercial life. The treaty stipulated that known (public?) debts were to be paid as soon as possible. Otherwise, no one was permitted to keep company with the debtor, either on ships or on land, until the debt had been paid. For unknown debts (*les dettes que ne sont pas conues*) they simply had to be paid as soon as possible. Likewise, threats and robbery should be recompensed as soon as possible, and known malefactors were barred entrance to ships or towns until redress had been made in the form of a marcher-trial, where *prudhommes*¹⁴ from both sides would inquire into the matter and reach a settlement. The treaty's stipulation concerning arrest, also related to debts, stated that no one should engage in arrest of the other

¹³ A possible meaning of this could be a strike with the flat side of the sword or the pommel. Finch, "The nature of violence," p. 257.

¹⁴ Just, honourable and wise men. Godefroy, *Dictionnaire*, VI, 399. See also Gauvard, "Prud'homme," in C. Gauvard, A. de Libera, and M. Zink, eds, *Dictionnaire du Moyen Âge* (Paris, 2002), p. 1158.

party's goods except for the creditor or his appointed pledges. How this relates to reprisals is unclear, even though it is likely that only the creditor was permitted to arrest the goods of the debtor in order to avoid incidents of fraudulent arrests. The treaty is, however, quite clear when it comes to piracy. It stated that if a man from either party took to the sea to rob and cause evil without the permission of the king of England, both parties were obliged to refuse him sanctuary and to hunt him tirelessly at sea.¹⁵ In other words, pirates were outlaws and should be hunted down by both parties indiscriminately, but it is important to note here that mariners in royal naval service and people with letters of marque were exempt from this. This is the closest that I have come to a Ciceronian paradigm in the sources.

Again in accord with the amnesia and amnesty concept, the last articles of the treaty stated that the mariners of both parties should loyally aid each other against all other malefactors and stand together against all enemies except for the king of England. Should discord, however, arise between the parties, they were obliged to give each other forty days to evacuate before commencing collective reprisals. This was a customary procedure in the Middle Ages, both when conflict was about to erupt or when a peace treaty had been proclaimed.¹⁶ The purpose of this custom was to give innocent people time to evacuate before the reprisals commenced and to avoid being caught up in private quarrels. In addition, it served a purpose in the cessation of hostilities, for it was a measure to ensure that people at sea engaged in acts of hostility at the time of the ratification of the treaty would not be punished for the infringement of a peace whose existence they were not aware of.

Finally, the parties swore to uphold this peace forever, seemingly an indirect acknowledgement of the eschatological character of medieval peace. Nevertheless, Edward II apparently found it necessary to renew the treaty in 1310, perhaps to make sure they were obligated to him, as to his father, but also because there indeed had been infringements of the peace, not least in the 1290s.¹⁷

¹⁵ "Et si nul homme qi soit d'une partie ou d'autre se velait metre en la mer pur robber ou malfer par soi meismes par fraude, sanz maundement nostre Seigneur le Roi d'Engleterre, pur aler encontre asqun qi soit des parties pur faire mal, qe ambedeux les parties augent sur celuy e q'il ne lessent ester en pees en nul lieu, si la q'il le eient en gette de tute la mere." Printed in Goyheneche, *Bayonne*, p. 534.

¹⁶ See Beaumanoir, *Coutumes*, art. 1695, pp. 368–369, *ORF*, I, pp. 56–58, Carbonnières, "Pouvoir royal," p. 3.

¹⁷ Printed in Goyheneche, *Bayonne*, pp. 533–535.

This treaty was based on a *lex talionis* principle,¹⁸ and in part it had the aggrieved as the executors of punishment. Furthermore, it was directly related to maritime commercial life, shown by the insistence on debts and their recovery, and it had traits of the march procedure in the engagement of arbiters. Finally, it presupposed that when disputes arose, the parties would disregard solidarity with their fellow-countrymen or shipmates, to ensure that justice be done. This seems to have been extremely unrealistic, however. In the rest of the chapter, I shall show how in the first part of the fourteenth century the English kings abandoned this measure in favour of letting royal or indeed municipal authorities carry out the sentences and ultimately hold the municipalities responsible for their citizens' actions, instead of going for the individuals directly responsible.

Incidents of Piracy and the Non-application of the Treaty

In the turbulent first years of the 1290s, probably in 1293 sometime before 30 June, Bayonnais and English mariners clashed off the Isle of Wight. In this incident, English shipmasters from Great Yarmouth, Winchelsea and Weymouth in four ships and one great cog attacked the ship of two Bayonnais merchants. The English robbed the merchants and killed some of the Bayonnais on the Isle of Wight. Quickly, royal officers were sent to investigate the case in Great Yarmouth, Winchelsea and Portsmouth, and orders were given to the bailiffs of the Isle of Wight and Portsmouth to find and apprehend the guilty and present them to the king in the middle of July. On 15 July, royal orders to the Cinque Ports and Great Yarmouth to keep the peace with Bayonne were issued, and royal officers were commissioned to Portsmouth to carry out the agreement recently drawn up before the king and council with the assent of the parties.¹⁹ This agreement stated that peace was to be observed under forfeiture of life and goods and that the agreement should be sworn on the gospels by both parties. Furthermore, the English were to swear to the officers in the church of Portsmouth and on the gospels that they had taken the Bayonnais for Spanish, with whom hostilities were on the rise, and the English were fined a sum to be used to pay six chaplains to celebrate mass for the slain for one year. For their part, the Bayonnais were to retain three

¹⁸ The *lex talionis* principle can be summed up as the law of retaliation where the punishment corresponds in kind and severity to the injury suffered. The most famous example is the biblical "an eye for an eye, a tooth for a tooth".

¹⁹ *CPR 1292–1301*, pp. 29 and 31.

of the Englishmen (as hostages) until the families of the deceased had accepted the agreement. If the families accepted, all arrests from both parties made by the king as security were to be released. Furthermore, both parties were to swear on the gospels, not just personally but also on behalf of their communities, that the conflict was over and that peace would be observed. Thus, the conflict was settled. It is interesting to note in this case that, in addition to the above agreement, Edward ordered the Bayonnais to restore the goods that they had robbed from Lombard and Flemish merchants. In other words, the Bayonnais merchants, attacked by the English, had in fact themselves indulged in piracy on their way to England.²⁰

In this incident, the *lex talionis* principles of the 1277 treaty were not applied. This may be because the conflict was between the Bayonnais and a mixed party. However, I find it more probable that the answer to this absence is due to the plausible mistaking of the Bayonnais as being Spanish and Edward's fear of a further escalation of the maritime conflicts.

The settlement between the Cinque Ports and Great Yarmouth in 1305, which marked the end of the maritime war that commenced with the naval battle off Flanders in 1297, signals the English royal reform of settlements between ports. In this settlement, Edward pardoned all previous violence and plunder in order to establish eternal peace. This peace was to be sworn by every shipmaster and two mariners from every ship from the maritime communities to the mayors and royal officers of the Cinque Ports and Great Yarmouth. The mariners furthermore pledged to enforce this peace amongst their own and to deliver any transgressor of the peace up to the bailiff in the nearest port. These bailiffs were to keep the transgressors and their goods arrested until sufficient amends had been made to the victims. If the owner of a ship knowingly received such transgressors and their goods without informing the local bailiff, it would result in the arrest of the ship-owners goods as well, only this was to be forfeited to the king. However, any mention of corporal punishment is completely absent, and it seems as if the only punishment that could be ordered was economic.²¹ In spite of this peace, the mariners continued to clash. For instance in 1316, mariners from Great Yarmouth attacked and plundered mariners from the Cinque Ports and burned their ships off Portsmouth, despite Edward II's prohibition of such actions. The king reacted by

²⁰ CCR 1288–1296, p. 324.

²¹ *Charters of the Cinque Ports*, ed. Samuel Jeake (London, 1728), pp. 15–17.

convening representatives from the parties to negotiate a peace and to avoid the Portsmen retaliating. Initially, Edward declared that the Yarmouthmen should be punished in a manner to strike terror into all and discourage them from further attacks. However, in the end, no corporal punishments were meted out, in tenor with the 1305 settlement. Instead, the men of Yarmouth agreed to pay a fine of £1,000 to the Portsmen,²² and it seems as if the treaty actually worked in restraining the mariners from continuing the conflict. This treaty of 1305 can thus be seen as an experiment in settlement by the English kings, later to be tried out in an international arena, as I will show below.

Thus, the English domestic cases show that the draconian tenets of the 1277 / 1310 treaties were not actually applied in cases involving subjects of the English king. The reason for this may well have been that such punishments could be detrimental to the cessation of conflict. The very fact that the treaty was renewed in 1310 supports this argument, since there was no need to renew a treaty with perpetual relevance if it had been observed to the letter.

FLANDERS AND PORTUGAL

The beginning of the 1290s was characterised by a high level of animosity by all mariners in the northwestern seas against the Anglo-Bayonnais. It is impossible to tell if the conflict with Portugal and Castile was related to the conflict between English mariners and the Flemish and Norman mariners, or whether they developed independently of each other. Nevertheless, the number of maritime conflicts coming to light at the beginning of the 1290s certainly points to a very high tension at sea whose initial cause we can only guess at.

On 5 June 1291, Edward ordered the justiciar of Ireland to make sure that no harm befell French and especially Flemish mariners, either on land or at sea, and to let them come and go freely until the coming All Saints, because tensions between the Flemings and the English mariners were on the rise and Edward wished to minimise them. Furthermore, Edward ordered the justiciar to release arrested goods of two Flemish merchants

²² *RG*, IV, nos. 1774, 1775 and 1776, pp. 516–518, *CPR* 1313–1317, pp. 520 and 576, *CCR* 1313–1318, p. 367.

which, in all probability, had been arrested as a reprisal for aggressions by Flemish mariners against the Irish.²³

Seemingly, Edward's actions did not help, and in 1292, he took further actions to stop the conflict from escalating. This conflict was in all likelihood directly connected to the maritime war between the Anglo-Bayonnais and the Normans, since it seems as if the Norman mariners were aligned with their Flemish colleagues against the English. Like the negotiations commenced with Portugal and Castile to stop similar maritime conflicts the same year, Edward's actions were an attempt to limit the ongoing maritime hostilities to a strictly Anglo-French affair and to bring peace to the seas for the prosperity of trade. Thus, in the years 1292–93, Edward and the count of Flanders, Guy de Dampierre, negotiated a cessation of the hostilities between the Anglo-Gascon and the Flemish mariners. On 6 May 1292, Edward declared that a process for the cessation of hostilities had been commenced by the count and himself. They agreed to pardon all past damages and to enter a truce.²⁴ Future offences were prohibited from Easter to All Saints next (the end of the truce), and all damages done to innocent Flemings were to be restored by the English king and vice versa. This truce was to be proclaimed publicly, and Edward threatened punishment of grave forfeiture for infractions of the peace. The same day, Edward ordered a proclamation, that Flemish ships and goods arrested during the conflict were to be released and that the Flemings were permitted to export wool again.²⁵

During that year and the next, negotiations over the settlement continued. On 6 May 1293, Guy wrote to Edward that Flemish merchants had been attacked at Saint-Mathieu by Anglo-Bayonnais, that some had been killed and that the merchants had suffered tremendous economic losses. In all likelihood, this attack was done by the Anglo-Bayonnais lying in wait for the Normans. It is possible that what Guy described was the naval battle off Saint-Mathieu where the Anglo-Bayonnais defeated a Norman fleet and that the Flemings were allied to the Normans. If this is the case, we should not be surprised that Guy did not mention the Normans, for he had no interest in getting the attack on his subjects mixed up in

²³ *Foedera 1273–1307*, p. 755.

²⁴ “ante omnia, rancoribus, contentionibus & injuriis universis prorsus sublatis, necnon & dampnis ac jacturis quibuscumque datis seu illatis hinc indè, pardonatis totaliter & remissis.” *Foedera 1272–1307*, p. 759.

²⁵ *Foedera 1307–1327*, p. 759. On 8 May, Count Guy issued an identical order to the Flemings. *Foedera 1307–1327*, p. 760.

this maritime war. It must be noted, however, that most sources date the Saint-Mathieu naval battle to Pentecost which was ten days later than the dating of Guy's letter, and the *Chronicle of Bury Saint-Edmunds* mentions two naval battles in May, on the 15th and on the 26th of May.²⁶ Thus, it is more likely that the Anglo-Bayonnais had simply lain in wait for all traffic at Saint-Mathieu and that the two incidents were separate. In any case, the count urged Edward to help him find a remedy quickly, since this attack posed a grave threat to trade, since the Flemish merchants stayed at home out of fear of piracy.²⁷

The outbreak of the Gascon War in 1294 disrupted these Anglo-Flemish negotiations. As a result of the war, Flemish policies towards England became subsumed into the French ones, which entailed a trade embargo to the detriment of Flemish interests, and *de facto* French royal control of the county of Flanders occurred. This pushed Guy to ally himself openly with the English in 1297.²⁸ On 8 March,²⁹ the Flemings and the English agreed on a perpetual peace and alliance for mutual safety and protection between the masters and mariners of England, Bayonne and Flanders. This declaration stated that all English and Bayonnais ships going to Flanders should have banners with the arms of the king of England and the Flemings' banners with the count's arms. In addition, both should carry letters patent with the town seal of their hometowns so that enemies would not be able to deceive them by carrying false colours. If a man from either party committed murder, robbery or trespass against the other party, the murderer should be punished by death, whereas wounding and other trespasses were to be punished according to the local law where the trespass was committed, thus taking a *lex talionis* approach to piracy. Finally, any long-time delay in the execution of justice should not be allowed to influence the relationship between England and Flanders, and both parties strove to conduct justice as speedily as possible.³⁰

In Easter a few weeks later, Flanders entered an official alliance with England against France,³¹ and before the French invasion of Flanders in the summer and the Anglo-French truce of October 1297, Guy functioned as intermediary in the settlement of maritime conflicts between

²⁶ *Bury Saint Edmunds*, pp. 116–117.

²⁷ *Foedera 1273–1307*, p. 788.

²⁸ Nicholas, David, *Medieval Flanders* (London and New York, 1992), pp. 187–190.

²⁹ Not on the 20th as Marsden claims. Marsden, *Law and Custom*, p. 46.

³⁰ *Foedera 1273–1307*, p. 861, Marsden, *Law and Custom*, pp. 46–48.

³¹ *Foedera 1273–1307*, p. 862.

Castile, Portugal and the subjects of the English Crown. For instance, on 17 February 1297, Edward wrote to his lieutenant in Gascony and the senechal of Gascony to inform them that Castilian and Portuguese mariners had asked Guy to intercede on their behalf with the English king for the arrangement of mutual safe-conducts for merchants of the English realm and of Iberia to come and go until the *quinzaine* of Michaelmas. In case of a positive reply, a mariners' and merchants' truce would commence, which was to be proclaimed publicly so that trade could resume.³² Thus, Guy acted as an intermediary between these monarchs in the arrangement of a truce. On 1 April, Edward wrote to Guy that the Bayonnais Piers d'Artiklong's ship had been attacked and plundered by the Spanish off the Flemish coast. Since this ran counter to the truce which Guy had facilitated, Edward asked him to conduct an arrest of Castilian goods in Flanders, as a remedy for Piers and his associates in the interest of upholding the truce.³³ Shortly thereafter, Guy was deposed, and the French more or less effectively took over control of Flanders. Therefore, the arrest never occurred, and Piers d'Artiklong was still pursuing his claim in the first decade of the fourteenth century.

At the same time as negotiations were occurring between England and Flanders (and England and France) over the escalating maritime war, negotiations were also being conducted between England, Castile and Portugal. I will briefly deal with the short period of hostility between the English and the Portuguese before moving on to the more enduring conflict between Castile and England.

On 15 July 1293, the same day as Edward ratified a truce with Castile, Edward wrote to King Diniz I of Portugal complaining about Bayonnais merchants being plundered in public in Lisbon. Since Edward desired peace, he asked Diniz to concede to an inquiry into the case by the royal officers in Gascony and by the Portuguese in order to determine and grant restitution to the Bayonnais in the interest of peace between the kingdoms.³⁴ Nothing seemed to come of this. Instead the conflict escalated, and English merchants also became embroiled in the conflict with the Portuguese. On 23 April 1294, a settlement was negotiated by a bi-partite commission along the lines of those of marcher conflicts. Two Bayonnais and two Portuguese commissioners were to meet, inquire into each case,

³² *Foedera* 1273–1307, p. 860.

³³ *Foedera* 1273–1307, p. 863.

³⁴ *Foedera* 1273–1307, pp. 789–790.

and grant restitution when appropriate. If the commissioners could not reach an agreement, a neutral fifth person would decide with the majority. Because of the distance between the kingdoms, safe-conducts were issued to English, Bayonnais and Portuguese mariners alike until the coming Pentecost. However, this safe-conduct was not extended to Portuguese either freighting or sailing in Castilian vessels, since this conflict still had not been settled. Thus, an Anglo-Portuguese truce had commenced, and until the end of the safe-conduct period Diniz should actively protect English subjects going to Portugal.³⁵ These negotiations seem to have progressed well, but Diniz feared that the continuing conflict between English subjects and the Castilians would jeopardize the negotiations. Thus, on 30 December 1294, Diniz wrote to Edward that the “guerris et discordiis” between these two parties was a liability to innocent people, (that is, Portuguese mariners), because they risked being taken for Castilians by the English. Furthermore, Diniz stated his concern that some people would take advantage of this state of affairs to conduct indiscriminate plunder and piracy.³⁶ He therefore strongly urged Edward to stop the *guerras* and restore law so that malefactors would not attack the innocent.³⁷ Despite this, in 1295, Bernard Dongressili was granted a letter of marque against the Portuguese, which indicates that peace still had not been established (see chapter 5).

In any case, the settlement between England and Portugal, negotiated by Guy of Flanders in 1297, does seem to have worked, for after 1297 no disputes between Anglo-Bayonnais and Portuguese mariners appear in the sources.

CASTILE—THE CHANGE OF A PROCEDURE

The maritime conflicts between the Anglo-Bayonnais and the Castilians were—contrary to those presented above—more enduring, and the peace treaties between these two parties reveal a fundamental change in the way in which international maritime wars were dealt with by the English kings.

³⁵ *Foedera 1273–1307*, p. 799.

³⁶ “Ex quibus guerris & discordiis dampna multitoda rerum & corporum provenerunt, non solum sibi ipsis, qui hujusmodi guerras susctârunt, set eciam aliis multis hominibus, qui non fuerunt, nec sunt in culpâ, propter mercimonia & res suas, quas in navibus asportari faciebant.” *Foedera 1273–1307*, p. 815.

³⁷ *Foedera 1273–1307*, pp. 815–816.

The disputes between the Anglo-Bayonnais and the Castilians can be divided into two parts, the ones of the 1290s and those of the first two decades of the fourteenth century. The settlement of these maritime wars was severely hampered by the death of the Castilian king Sancho IV in 1295 and the weak royal control over the kingdom of Castile until the 1320s. This period of Castilian history was characterised by the minority of the kings and the fight for the throne between the kings' wardens, the pretenders to the throne and their noble backers. Thus, Fernando IV was six when he became king (1295–1312), and Alfonso XI was only a one-year-old when he was proclaimed king (1312–1350). As a result, these kings and their government were severely weakened.³⁸ Consequently, the royal Castilian government did not have much power to stop the piracies and maritime wars of the ports on the northern Atlantic coast, to the detriment of a lasting maritime peace.

On 17 May 1293, Edward declared to all his subjects that the conflict between the Castilians and the Bayonnais, which had drawn in the English mariners as well, had now been settled, and a truce was commenced which was to last until Christmas. Johannes, *judex* of Sancho IV of Castile's court, and Gundissalvus Martini, both commissioners of Castile, and the citizens of Bayonne, Arnaud de Villari (probably de Viele) and Jean d'Ardayr, were appointed to negotiate the terms of a settlement and to conclude a truce. In order that no one should be able to feign ignorance of the truce, it was to be announced publicly before Michaelmas, and from that time on no one could be excused either because of distance or long absence. It further stated that Sancho and the Castilians were to release all arrested persons, goods and ships of Bayonne taken after 1 December. People, goods and ships arrested before 1 December would be granted restitution during the truce by Sancho and his subjects, mariners or merchants, and Sancho promised to restrain his subjects. The Bayonnais, for their part, promised the same, and Bayonnais officers (both municipal and royal) pledged to secure restitution for aggrieved Castilians. After Michaelmas, the commissioners were to convene in Fuenterrabia and Saint-Jean-de-Luz. Here they were to treat the pending petitions, find those guilty in causing the conflict, establish the values of the lost goods for those who had not yet obtained restitution, determine damages and injuries caused and finally conclude a perpetual peace.³⁹ On 18 June 1293,

³⁸ Ruiz, Teófilo F., *Spain's Centuries of Crisis, 1300–1474* (Oxford, 2007), pp. 53–63.

³⁹ *Foedera 1273–1307*, pp. 789–790.

Edward ordered the Anglo-Bayonnais mariners to desist from further conflict and to observe the truce with the Castilians. He furthermore ordered the cancellation of past letters of marque (“marque seu gagacione”) given to his Gascon subjects and the release of arrested goods and persons once Sancho of Castile had publicly approved the truce.⁴⁰

However, the death of Sancho in 1295 and the struggle for the throne troubled this initiative. Indeed, in 1296 the mariners of the northeastern Castilian Atlantic ports formed the port association known as *El Hermandad*, primarily for peaceful settlement of disputes between the ports but also to enforce an embargo on trade with England and Gascony.⁴¹ It consisted of the ports of Santander, Laredo, Castro Urdiales, Bermeo, Guetaría, San Sebastián, Fuenterrabía, Vitoria and, from 1297, Vicente de la Barquera.⁴² These ports were relatively small, presumably of 2–3,000 citizens per port, and Teofilo Ruiz suspects that the merchants and shipmasters held a lot of power in these ports due to their wealth.⁴³ Sometime during the 1290s, possibly in 1297 with the Anglo-French truce, or the beginning of the 1300s, most of these ports seem to have ceased their war with the Anglo-Bayonnais, but Santander, Laredo and Castro Urdiales continued it. In 1306, Edward I commenced negotiations for the settlement of the conflict with the Castilian king (or more likely his wardens). The course of these negotiations is of fundamental importance to an understanding of the changes in English policy on piracy and maritime private war.

1306–1311

On 28 July 1306, Edward I wrote to the town of Bayonne concerning a conflict (*discordiis & contentionibus*) between Bayonne and the Castilian ports of Castro Urdiales, Santander and Laredo. Edward wrote that he had learned that a truce had been entered into by the Bayonnais which was to last until St. Johns in 1309. Edward acknowledged the truce and

⁴⁰ CPR 1292–1301, p. 34.

⁴¹ Ruiz, Teofilo F., *Crisis and Continuity: Land and Town in Late Medieval Castile* (Philadelphia, 1994), p. 197.

⁴² Childs, Wendy R., *Anglo-Castilian Trade in the Later Middle Ages* (Manchester, 1978), pp. 17–18, Arizaga, Beatriz Bolumburu and Bochaca, Michel, “Caractères généraux des villes portuaires du nord de la péninsule Ibérique au Moyen Âge,” in *Ports maritimes et ports fluviaux au Moyen Âge* (Paris, 2005), pp. 63–78.

⁴³ Ruiz, *Crisis*, pp. 198 and 204.

affirmed that the Bayonnais could continue to trade peacefully.⁴⁴ This is the first indication of a renewed (or perhaps continued) struggle between the Bayonnais and the Castilians, and the truce was apparently negotiated between the ports without the immediate interference of the kings as in the 1290s. Nevertheless, the kings quickly became embroiled in the conflict as arbitrators.

On 28 February 1307, Edward I wrote to King Fernando IV of Castile, informing him that while the commissioners were negotiating on the present conflict, seven Bayonnais citizens (amongst them Arnaud de Saint-Martin—see chapter 5) had been plundered for the amount of 3,457 marcs, 6s. and 8d. during the conflict in the 1290s and still had not received either justice or restitution, but for £166 sterling (approximately 220 marks). Thus, Edward asked Fernando to honour the agreement that Edward had made with his father and grant the remaining sum to the Bayonnais.⁴⁵ This demand was repeated on 14 May 1308, and Edward II asked that their fathers' agreement was respected and restitution was given,⁴⁶ thus showing that nothing had come of it.

While these negotiations and the truce was going on, other English maritime communities seem to have been stirred by this conflict, or possibly Edward feared that they would mobilise in aid of Bayonne. At least this is the impression that one gets from Edward's order of 13 November 1308, to the authorities of Sandwich, Dover, Winchelsea and Bayonne, in which he forbade them from assisting the Bayonnais mariners in their war with the Castilians, ordered them not to hurt French subjects and moreover forbade the Bayonnais from continuing war with the Castilian mariners.⁴⁷ Thus, it would seem that the truce was not really being observed and that French mariners were becoming embroiled in the conflict, possibly as the Castilians' allies. However, the day before, Edward II had informed Fernando that negotiations were going well, and to ensure the peace he had ordered the Bayonnais on pain of total forfeiture ("sub forisfacturâ omnium quæ nobis forisfacere poterunt") to abstain from damage to the Castilians. Accordingly, he asked Fernando to order the same.⁴⁸ These two statements do not really correspond, and it is likely

⁴⁴ *Foedera 1273–1307*, p. 991.

⁴⁵ *Foedera 1273–1307*, p. 1010.

⁴⁶ *Foedera 1307–1327*, p. 44.

⁴⁷ *CCR 1307–1313*, p. 130.

⁴⁸ *Foedera 1307–1327*, p. 60. On pp. 80–81, a similar case of non-compliance of the truce is recorded.

that the order to the Anglo-Bayonnais to abstain from war was rather to make sure that the fragile truce did not break down altogether, signalling that, to the contrary, the negotiations were threatened by continued hostilities. This is corroborated by a later document stating that between 1306 and 1309 a Castilian fleet had descended upon English Saintonge and had plundered and killed Englishmen, thereby pointing to the by now well known escalation pattern.⁴⁹ Indeed, as was evidenced later, these Castilians had descended on the house of the English king's bailiff of Saintonge, Guillaume Arnaud de Campaniha, amongst others, thus in effect directly attacking the English king's authority there.

In the late spring of 1309, the situation had developed in a reasonable direction. On 15 April, the Castilians affirmed that the conflict would now be treated by the Castilian commissioners, Juan Didaci de Gaudalfayra, knight, and Fernando Gundisalui de Fries. The Bayonnais appointed the citizens Raymond Durand de Villa (de Viele) and Arnaud de Meuta as their commissioners, even though they made the reservation that these two could by no means be held personally responsible for the outcome. On 14 September, Edward II conceded to this procedure. The agreement that they had reached in the two years of truce was a negotiation and a settlement as stated in the following:

The truce was to be made public in Castile and in the English king's lands before Christmas, so that none could claim ignorance of it. If any one from that day forward was arrested, captured or made any usurpation of the belongings of the others, knowledgeable or ignorant of the agreement, they were to do restitution during the truce. Breakers of the truce would be punished corporally and on their goods, and they would be strongly prosecuted. If capture, arrest or seizure was committed during the two-year truce and the ship and goods were not consumed (that is, sold off) or could be found, restitution was to be granted immediately in forty days before next Sunday. If the goods were "consumed" or could not be found, a four-man commission was to be arranged. The commissioners were to swear on the Bible to remain impartial and to reconvene next Sunday in forty days on the bridge of Fuenterrabia and to proceed

⁴⁹ *Foedera 1307–1327*, p. 89. "sit notorium quod illi de Hispaniâ, factâ flotâ, congregato eexercitu more hostili cum armis, & de die intraverunt terram nostrum de Xanctonia; & et murtriverunt multos homines; & deprædaverunt bajulum nostrum bonis quæ habebat, spoliaverunt, & locum suum tenentem ceperunt, &, et sine aliquâ culpâ, viliter murtriverunt, in magnum opprobrium nostrum; & plures Anglicos homines nostros qui non errant, nec sunt de guerrâ, in mari & in terrâ deprædaverunt".

with the negotiations after having examined their own (that is, examined their own accused). This was to be done with goods, etc., which were not consumed or found. With “consumed” or not-found goods they would hold inquiries from next Christmas to next Christmas over, and after that they would not hear or hold any more examinations and would consider the cases closed. Restitution to those heard by the four men would be granted before next St. John’s provided the four agreed on what was to be restituted. In regard to homicides, four men were to be appointed from Bayonne and four from the Castilian towns. They would capture the countrymen who broke the truce and punish them according to their personal judgement or that of the kings. Those who had done trespasses before the truce, that is, during the *guerra*, would make restitution, but they would not be liable to any punishment as such. Concerning the suffering of innocent people who had been attacked nonetheless, and here the English referred specifically to the Castilian attack on Saintonge,⁵⁰ Edward tolerated it because of his love for Fernando, and in essence amnesty was granted. However, future actions like this were to be judged by the four-man commission. The mayor of Bayonne was to deal with his countrymen and the Castilian king with his subjects. Concerning the still outstanding cases of restitution dating from the reign of Edward I, Edward II pleaded that Fernando would grant restitution in accordance with the 1293 treaty. If the four commissioners could agree on the premises, conditions and punishments during the truce, future and eternal peace would be secured. If they could not agree, the commissioners were to report to the kings who would find other means for reaching a settlement.⁵¹

In the autumn of 1309, the parties seem to have agreed to the procedure for the exact negotiation of the damages. On 14 September Edward wrote to the knight Arnaud de Caupenne, Gaillard de Saint-Paul, lord of Seros, the knight Guillaume Arnaud de Podenes, and Arnaud de Vicq, the king’s clerk at Bayonne, ordering two of them to go in forty days to meet with the Castilian representatives on the middle of the bridge⁵² in Fuenterrabia on the Gascon border and to negotiate an agreement on behalf of Bayonne. These commissioners were furthermore given full authority to

⁵⁰ *Foedera 1307–1327*, p. 89.

⁵¹ *Foedera 1307–1327*, pp. 89–90, *EMDP*, I, 398–402.

⁵² It was a custom in the Middle Ages to meet on a bridge on the border to negotiate peace, since it represented a place controlled by no one and thus a neutral land between the belligerent parties. Furthermore, the water was taken as a symbol of the washing away of enmities and the past deeds of violence. See Offenstadt, *Faire la paix*, pp. 157–159.

negotiate, to see witnesses, to compel, cite, punish, judge, arbitrate and impose penalties on *rebelles*, that is, transgressors of the truce and peace, both in past and future. The English procedure was to let two of the above-mentioned start the negotiations and then let the other two finish them. Furthermore, Edward promised to write a letter to the seneschal of Gascony, ordering him to carry out the decisions of these commissioners.⁵³

However, despite these developments, the piracies continued, and on 1 October four merchants from Southampton complained that they had been plundered by Castilian pirates off the coast of Brittany. This complaint was ordered to be forwarded to the four Anglo-Bayonnais commissioners and to be included in the negotiations.⁵⁴ For the next two years negotiations seem to have continued without any major impediments. On 28 July 1311, the Castilian towns and councils of Castro Urdiales, Santander and Laredo gave their approbation of the proposed peace treaty by the commissioners. However, since the Castilian commissioner, Ordoño Pérez, was archdeacon of Palenzuela, and Pierre Arnaud de Vicq was a member of the clergy, they could not order corporal punishments, either death or mutilation. So the towns were left to devise and carry out the exact penalties, which were proposed as the following: Murder was to be punished by corporal punishment in the same place as the murder had happened or, if the murderer was not apprehended there, then anywhere else he was found. Whoever aided the murderer was to suffer the same punishment, and his goods were to be confiscated according to the custom of the town of his origin. The towns had a mutual obligation to prosecute murderers and confiscate their goods. If a person attacked another with a dagger or bludgeoning weapon and wounded another person, the attacker was to lose the hand that held the weapon—if he could be found. Any failure to stop this from happening by the attacker's companion, or any aid to the malefactor, resulted in a fine of 100 l.t. payable to the local lord. If they were not able to pay, the person would lose his hand like the malefactor himself. Kicks and strikes with fists with no bloodshed were to be fined with 10 l.t. payable to the local lord. If the person could not pay, he was not to be admitted on any ship until the fine was paid. If anyone armed for piracy without the mandate of their lord ("leuantar a fazer se cossarios por fazer mal sint mandamiento de su seihor"), both the Bayonnais and the Castilians were obliged to hunt the pirates tirelessly and not admit

⁵³ *Foedera 1307–1327*, pp. 88–89 and 92.

⁵⁴ *CPR 1307–1313*, p. 243.

them in their lands. Instead, they were to apprehend them and condemn them to death as violators of the peace. Should one be unable to arrest the pirate or if he fled, one had the right to kill the malefactor without having to fear prosecution. Finally, those who aided the pirates were also to suffer the death penalty.⁵⁵

On 9 October 1311, Edward II approved with his great seal the judgement and treaty agreed in Fuenterrabia by the four commissioners, by this time Gaillard de Saint-Paul and Master Pierre Arnaud de Vicq (the Anglo-Bayonnais commissioners) and Ordoño Pérez and Rodrigo Ibañez, *alcalde* of Vitoria, thus settling the maritime war between Bayonne and the Castilian ports of Castro Urdiales, Santander and Laredo. However, this final treaty differed significantly from the one proposed by the Castilian ports.

The treaty commenced by invoking the image of Christ, who died for the sins of mankind in order to secure eternal peace. It then proceeded to praise the peace and indeed the kinship of the kings, as well as the amicable relationship which the Bayonnais and the Castilians had enjoyed since old times. Thus, according to the treaty, it was the Devil who had instigated the discord, and the commissioners' task was not just to establish a secular peace but rather the restoration of divine order.⁵⁶ The commissioners claimed that the treaty had come about after careful scrutiny of every case presented to them and that it had been solved by equity rather than rigorous law.⁵⁷ In accordance with this, the treaty changed the punishments from corporal to incarceration and fines. Thus, in the treaty, Edward was to inform all his officers of the following: transgressors of the peace were to lose all goods and to be imprisoned for life or banished but *not* punished such that life and limb were threatened (*"citra mortem et membrorum emutilacionem puniantur"*). A list then followed with the names of the aggrieved, their losses and the names of the pirates. The pirates on both sides were condemned to pay half of the sum of what was listed in the complaint. A possible explanation for this curious solution is a taking into account of the possibility of exaggeration in the complaints. This restitution was to be paid at the latest before Easter Sunday (*festum Resurreccionis*) next year, and it was to be executed by the mayor

⁵⁵ Printed in Balasques, *Etudes historiques*, III, 74–75 and 516–519.

⁵⁶ On the Devil's role as the instigator of wars, see Offenstadt, *Faire la paix*, pp. 32–48.

⁵⁷ *"volentes amplectere equitatem potius quam rigorem, ut nostrum iudicium de vultu Dei prodeat et videat equitatem, concorditer et unanimiter."* RG, IV, no. 562 p. 161.

and *jurati* of Bayonne through the confiscation of the properties of the malefactors. If the malefactors were not to be found, their families were to pay through coercion from the mayor and *jurati*. If the mayor and *jurati* refused to carry out the order, or if they were somehow unable to produce the sums from the family, they were to pay from their own pocket or be forced to do so by the king of England and his seneschal in Gascony. The same rule applied for the Castilians, where the executors were the *alcaldes*, the *jurati* and ultimately the king of Castile. The treaty proceeded to set an example for the rest to follow by mentioning on the Bayonnais side the actions of Pierre Vital de Sayrelonque, Arnaud de la Biele / Viele and Jean d'Ardayr, shipmasters of Bayonne and prominent citizens of Bayonne, who had captured a ship from Santander. They were to restore the ship with tacking, etc., and if they could not because the ship and tacking had been "consumed", they were to pay from their own property to make restitution or compensation of the goods to the owners and mariners before All Saints next. If this was not done, restitution was to be taken from the mayor and the *jurati* at the execution of the king and his seneschal. Thus, it was the responsibility of the municipal authorities to carry out, or at least make sure that restitution was made, or else they would personally have to pay for the malefactors deeds. Amongst the Castilians, Sancho Garcia de Larganes, who had captured Bernard Jean de Rua Majoris's ship, was to follow the same procedure as the named Bayonnais. If he could not or would not make restitution, he was to pay 2,000 sous morlaas (app. £60–100 sterling). If he failed to pay, the *alcaldes* and *jurati* of the three Castilian towns were to make restitution from their own property. Concerning the fleet from the three towns which had attacked Saintonge and robbed Guillaume Arnaud de Campaniha, the king's bailiff, of 1000 *livres petits tournois*, he was to receive half in restitution from the *alcaldi* and *jurati*. If Campaniha refused this solution, however, (which he did) another solution would have to be found. Finally, in general, if either party's malefactors failed to make restitution, the town officials were to provide it out of their own property. Thus, the Castilian towns and Bayonne as communities were in effect held responsible for the actions of defaulters, and they were to punish them according to the agreement. Symbolically, the four biggest malefactors of each party (who were unnamed in the treaty) were to be condemned to lose all goods and serve a lifetime sentence of imprisonment, but no harsher punishment was to be dealt.

The treaty was ratified in Fuenterrabía by the procurators, and Edward approved and ordered his servitors to carry out and punish all who

disobeyed.⁵⁸ This treaty in effect led to the abandonment of corporal punishment and instead made the local authorities responsible for making sure that restitution was made. If they did not, these authorities had to pay the restitution out of their own money. The contrast with the previous maritime peace treaties, and indeed with the proposal by the Castilians three months prior, is striking. It is possible that this change was inspired by the results of the 1305 peace treaty between the Cinque Ports and Great Yarmouth. Nevertheless, this seems to be the first time that the model was tried out in an international treaty, but it was to be the preferred English settlement of maritime wars for the next decades.

AFTERMATH

Despite this agreement, in the 1310s it became apparent that at least the Castilians were either reluctant or more likely unable to actually carry out the stipulations of treaty.⁵⁹ Indeed, the death of Fernando IV in 1312 and the ascension of his one-year-old son, Alfonso XI, to the throne reopened the struggles for power in Castile and plunged the kingdom into chaos. An enforcement of the treaty became practically impossible for the royal Castilian government. For example, the Bayonnais Arnaud de Saint-Martin, who had been robbed in the 1290s, had still not received complete restitution despite what was agreed in 1311. Thus, in 1317 (if not before) arrests and letters of marque were issued to Bayonnais to obtain restitution.⁶⁰ The inadequate resolution of these cases is also shown by another case, namely the plunder of the bailiff of Saintonge, Guillaume Arnaud de Campaniha, during the Castilian incursion into Saintonge. On 24 May 1317, Edward wrote to Gilbert Pecche, the seneschal of Gascony, informing him of the proceedings of this case. The words used in this document are interesting, as the Castilians from Santander, Castro Urdiales and Laredo, who attacked Campaniha's *hospitium* in Saintonge, were described as "plures marinarior & piratas". Yet in the rest of the document, these are termed as *malefactores*, thus showing the synonymy of the words in medieval parlance. At the *hospitium*, the Castilians had killed Campaniha's nephew, Campaniha had barely escaped them and they had

⁵⁸ *EMDP*, I, 402–6, *RG*, IV, no. 562 pp. 161–165.

⁵⁹ See, for instance, *CCR 1307–1313*, pp. 383, 489, 512 and 582.

⁶⁰ *Foedera 1307–1327*, pp. 325 and 332.

plundered him of 1,000 *livres petits tournois* in open contempt of Edward II. This had been acknowledged by Alfonso and was recognised by the proctors during the negotiations of 1309–11. However, no restitution had actually been made. Therefore, Edward had ordered the previous senechal, Jean de Ferrer, and now Pecche, to assure Campaniha restitution of the 1000 *livres petits tournois* plus extra damages through the issuing of a personal letter of marque to Campaniha (“concedendo eidem Guilielmo, marcham in personis”) of arrest against Spanish subjects until Campaniha declared to Pecche that satisfaction had been obtained. Furthermore, the Castilians had attacked and plundered three Bayonnais ships, and despite the fact that the Bayonnais had abstained from retaliations, no restitution had been made for the plunder.⁶¹ Thus, relations between the Castilians and the English mariners were deteriorating again, and the usual remedies of arrest and marque were applied.

While this procedure of resorting to incarceration and fines over corporal punishment seems a novelty, the towns themselves seem to have stuck to the customary *lex talionis* model. This is at least what is stated in the 1328 peace treaty between Bayonne / Biarritz and San Sebastian. This treaty was passed without the direct involvement of the kings of Castile and England, being agreed instead between the municipal governments of Bayonne and San Sebastian, and it was settled by a four-man commission as in the march custom. What is remarkable is that the articles in this treaty correspond in terms of punishments to those of the 1277 / 1310 peace treaty of Bayonne-Cinque Ports and especially of the one proposed in 1311 by the Castilians. Nowhere is there any mention of abstaining from corporal punishment.⁶² This shows that the old maritime *lex talionis* custom was still being used, despite the efforts of, particularly, the English kings. The practice of a more amicable approach which abstained from corporal punishment, but which held the local governments accountable for the actions of their citizens, was apparently only used by the kings, whereas the communities themselves stuck to the old method. This was perhaps because of tradition, but more importantly also because these governments would not agree to a solution where the municipal authorities were held economically accountable for the actions of their citizens. Finally, without the direct interference of the kings in this matter, it

⁶¹ *Foedera 1307–1327*, p. 331, RG, IV, no. 1823, pp. 531–532.

⁶² Balasque, *Etudes historiques*, III, 538–547.

was not possible to have anyone control this. Instead, the executors of punishments and the receivers of fines were the local lords of the place where the damage was done.

It is worth noting here the coincidence of the English change in peace-making applied to maritime wars with the reforms of the *Societas Navium*. While the municipal government obviously did not like the new way of making peace, it might have been a further impetus (apart from the socio-economic changes for maritime trade in the thirteenth century) to reform the Bayonnais mariners' association. The reform led to the mayor becoming the leader of the *Societas Navium* and all shipmasters his subjects. Thus, it became an instrument for the control of the actions of the shipmasters—in all likelihood to minimise damages to foreigners which the municipal government afterwards would have to pay. Perhaps this was the reason for the Bayonnais' repudiation of Johannes de Bainhers and Arnaud de Saint-Martin?

BAYONNE-NORMANDY

While the negotiations in Montreuil in 1306 had failed, other negotiations between the English and the French over the maritime wars between Bayonne and the Normans at the end of the thirteenth century and in the first decades of the fourteenth century were more successful.

1282

In 1282 the seneschal of Aquitaine, Jean de Grailly, informed the government of Bayonne that he and André dit Oreyllhom, citizen of Touques (?) (*Tonca*), Simon de Pont-Audemer and Jean dit Pyche, the French king's sergeant in the bailiwick of Calais, had reached a settlement of the dispute between Bayonne and the Norman ports of Dieppe, Fécamp, Étretat, Le Chef de Caux, Leure, Harfleur, Touques, Ouistreham (the Caen *avant-port*), Barfleur, Cherbourg and Régneville, amongst others. The cause for the dispute was a series of violent plunderings ("rapinis violenciis multis et aliis similibus altercationibus") in Gascony between Bayonnais and Norman shipmasters and mariners. Jean de Grailly therefore wrote to ask the Bayonnais to acknowledge the proposed agreement. He furthermore informed them that he would have the Bayonnais and Norman mariners swear on the Bible in the presence of the constable of Bordeaux before they left the port that "they will neither commit nor incite *guerra* and

discord or cause or aide in plunder, violence, killings, woundings or do any other damage or cause it to be done at sea as well as on land and with or without arms".⁶³

Those who swore to this would be acquitted of their past actions, thus obtaining amnesty. Any future trespassers were to be prosecuted by the constable, his lieutenant or any other bailiff or officer of justice according to the agreement. If a person evaded punishment, he was not to be admitted to either English- or French-controlled ports. Furthermore, no shipmaster was to receive or have any trespasser of the peace on his ship if he had been denounced by a bailiff or justice until he had been punished, either by fine or corporally.

The constable or another officer would write down the names of those who took the oath, and anyone who, after the publication of this settlement in the towns and ports, acted against its articles by committing rapine or damage to any of the mariners of the opposing party were to be subject to forfeiture or corporal punishment in proportion to the crime, to be carried out by the constable or the bailiffs (English as well as French). The punishments were the following; for murder the trespasser was to suffer capital punishment; for mutilating wounds the trespasser was to lose the hand; for wounding with no mutilation of the body and for rough concussion with no wounds, the trespasser was to pay 50 s.t. to the injured and 100 s.t. to the lord or justice in whose land the deed was done. For a strike with no wounds, the trespasser was to pay 50 s.t. to the injured and 60 s.t. to the bailiff or local justice. For rapine and plunder, the trespasser was to suffer capital punishment. Any master or mariner who acted against the agreement by defending and making sure that the trespasser could not be apprehended, was to suffer the same punishment as the trespasser.

Concerning arrests called marches ("ex arrestacionibus que vocantur marches"), if conflict should arise again, the mariners and masters were prohibited from having recourse to this means of reparation in the case where the principal debtor or his *fidejussor* could appear and raise the claim. The constables and justices in Bayonne, Bordeaux and Libourne, as well as in the Norman ports, promised to uphold this, and now Grailly asked the government of Bayonne to observe it as well. This agreement

⁶³ "in mare vel in terra cum armis vel sine armis, non facient nec movebunt guerram rixam vel contentionem nec rapinam, violentiam, occisionem vulnera vel alia dampna facient nec fieri procurabunt." TNA C 47/32/22/2.

was made public by Grailly in the duchy and by the king of France in La Rochelle and in his ports. The settlement was made at All Saints in 1282, and agreed by the French and by Bayonne on 12 January (*tertio nono*) 1282 (that is, 1283 in our time reckoning) with seals. After the winter parliament of 1282, Edward I ratified it on 29 July 1283.⁶⁴ We must assume, however, that even before All Saints 1282, a truce had been in effect for some time.

Several interesting things are mentioned in this agreement. First of all, the mentioning of Bordeaux as the locus of the oath-taking reveals that the core of the maritime war must have revolved around the wine export from Bordeaux. Furthermore, the punishments mentioned in the document follow the classic *lex talionis* model as seen above. However, it is worth noting that the royal officers are noted as the sole executors of punishments in these cases, contrary to the Bayonne-Cinque Ports agreement.

1316–1318

In 1316, the chronicler Geffroi de Paris noted that famine (the Great Famine of 1315–17) made the Flemings attack the Bayonnais and English at sea and plunder them of wine and grain, and that the English and the French kings made common cause against the Flemings. How this related to a reopening of the Bayonne-Normandy conflict is unclear, but several possibilities present themselves. One possibility is that the Bayonnais mistakenly took Normans for Flemings and plundered them, thus leading the Normans to retaliate. Another possibility is that the famine and the raised prices for foodstuffs made piracy more attractive, and that the Bayonnais or the Normans attacked the others' shipping to obtain produce to sell at inflated prices—perhaps with the clandestine support of the kings as the situation progressively got more and more desperate. However, the Bayonnais mariners had an installation in Flanders, and they might also have resorted to piracy, perhaps under Flemish colours, to supply Flanders and make a profit from the crisis. Finally, the naval operations by the French admiral, Berenger Blanc, to enforce an embargo on Flanders may also have touched Bayonnais trade and have led them to retaliations on French mariners.⁶⁵

⁶⁴ TNA C 47/32/22/2.

⁶⁵ Geffroi de Paris, p. 163, ll. 7593–7615 and 7635–7644, and p. 166, ll. 7900–7918. See Jordan, William C., *The Great Famine* (Princeton, 1996), pp. 173–175, for the stimulating effect the famine had in general on piracy.

In any case, the famine of the years 1315–17 was probably part of the reason for the reopening of the conflict between the Bayonnais and the Normans, even though it seems as if the old rancour quickly resurged and presented a risk of an escalation like in the 1290s. Therefore, Edward II and the French king Philippe V quickly set procedures of settlement in motion. Apart from the famine, these kings had further impetus to stop this conflict, since the English war effort against the Scots was becoming more and more desperate after the defeat at Bannockburn in 1314, and the French had to deal with regional uprisings because of taxes for the wars with the Flemings.

On 20 October 1316, Edward wrote to Philippe V's lieutenants to inform them that he had agreed to commence measures to stop the conflict, and he asked that Bayonnais were allowed to present cases in French courts if they wanted to, and that he would likewise allow French subjects to present cases in English courts.⁶⁶ In March 1317, Edward wrote to Gilbert Pecche, seneschal of Gascony, to appoint him to negotiate with the French on behalf of the Bayonnais and to protect them and their interests, all the while striving to obtain the best settlement for the dispute.⁶⁷ Thus, Edward had taken control of the negotiations to protect the Bayonnais against possible French royal schemes.

The negotiations progressed slowly, and on 24 May 1317, Edward wrote to Philippe, asking him to appoint negotiators amongst the Normans as Edward had done with the Bayonnais, to find a time and place for a settlement, to enforce a prohibition of further Norman hostilities and to stop judicial actions against English subjects.⁶⁸ Two days later, Edward asked the Bayonnais to enforce a prohibition of harassment of the Normans and to uphold the peace. However, this had limited success.⁶⁹

On 28 January 1318, Edward wrote to the Bayonnais, the government as well as the citizens, to order them to make a truce with the Normans that would end their disputes conducted without the king's consent, a truce which was to last for fifty years or more. Any infractions of the truce would be punished according to the penalties decided by the Bayonnais and the Normans. Edward further instructed the Bayonnais to observe the truce and to punish transgressors. However, an order was given to the Bayonnais mariners residing in the Zwin, Flanders, that any infraction

⁶⁶ *Foedera 1307–1327*, p. 299.

⁶⁷ *RG*, IV, no. 1779, p. 519 and no. 1784, p. 520.

⁶⁸ *Foedera 1307–1327*, p. 330.

⁶⁹ *RG*, IV, no. 1804, p. 525 and no. 1806, p. 526.

of the truce would be punished by total forfeiture, (“sub forisfacturâ omnium”), that is, life and goods. Edward ended the letter by informing them that he had asked Philippe to give similar orders to the Normans.⁷⁰ On 8 April, Edward wrote to the seneschal of Gascony, Amanieu de Fous-sat (Fossato), Master Thomas de la Grave and the mayor of Bayonne to negotiate the specifics of the truce of fifty years and to punish transgressors as they deemed fit (“sub poenis & conditionibus, modisque & viis aliis, quibus juxta discretionem vestram expedire videbitur”). Finally, on 20 November 1318, Edward announced a formal declaration of the fifty years’ truce to end of the *discordiis guerrinis* between the Bayonnais and the Normans. It was furthermore decided that no inquiries over damages done before the truce should be undertaken and that none would be troubled or would be aggravated from now on—in effect, amnesty. The same day, Edward wrote to all his Gascon officers that they were neither to hinder the Bayonnais any more nor to arrest their goods, showing that this was the measure that Edward had applied to make the Bayonnais come to terms.⁷¹ In other words, Edward had put force behind his words.

To my knowledge, there is only one case which gives further details of this maritime war. In a petition to Edward from 1318, Domenjon de France and his brother, Andrieu, informed Edward that their ship, *Seint-Johan de Bayone* had loaded merchandise in Libourne to be taken to Leure in Normandy, probably in 1315. However, when the ship approached Leure, it was attacked—in a time of peace—by four Norman ships off the port. The Normans killed the crew including their brother, Guillemot, and three other kinsmen Michel, Berthelot and Domenjon de Ville (that is, de Viele), and carried off their goods and merchandise to the value of 1,700 marks sterling. Afterwards, war broke out between the Bayonnais and the Normans, and Norman envoys came to negotiate in Bayonne. The brothers presented their case to the Normans and demanded restitution for their goods and their dead relatives, but peace was concluded between the *Bayonnais* and the Normans on the basis that all damages caused were to be pardoned. The de France brothers’ losses, which were suffered in a time of peace, were therefore forgotten to the chagrin of the brothers. Now that a truce had been agreed between the kings, the brothers asked Edward

⁷⁰ *Foedera 1307–1327*, pp. 355–356.

⁷¹ *Foedera 1307–1327*, p. 376. For these procedures see also TNA C 61/32/29.

to order the mayor and *jurati* of Bayonne to arrange for compensation for them.⁷²

However, Domenjon had actually already received at least partial restitution. In 1317, Edward wrote to the seneschal of Gascony that he desired that Domenjon (*Dominicus*) de France, citizen and merchant of Bayonne, was given a Norman ship taken by the Bayonnais for a certain price (a sort of security it later turned out). This ship had been repaired by Domenjon to great expense. In case of peace between Bayonne and the Normans, and if restitution for the ship was to be made, Domenjon was to have his security back.⁷³ In a letter from Edward II to the seneschal of Gascony dated to 7 June 1318, we learn that this ship was given to Domenjon and was to be kept by him until he had received restitution, provided that he paid a security to the seneschal of Gascony which would not be paid back to the brothers until the ship was returned. By the time of the writing, the ship was still in their possession. The same day, Edward also wrote to the mayor and *jurati* of Bayonne to inform them that the de France brothers' losses had not been included in the Bayonne-Normandy truce and that they had not received restitution. Therefore, Edward had ordered the mayor and *jurati* to assert whether the transgression took place as claimed and to cause restitution to the brothers all the while upholding the truce. In other words, the restitution was to be paid by Bayonne, not the Normans.⁷⁴ However, whether the brothers actually received restitution is unknown.

This case is interesting for several reasons. Firstly, it tells us how individual cases might be treated in the course of general negotiations. It furthermore says something about the reprisal and restitution system, since the brothers effectively were given an arrested Norman ship to use until a formal restitution had been made. Finally, the account of the Norman pirate attack may simply have been a lie invented by the brothers, perhaps to cover up a disastrous shipwreck or failed piracies of their own. The fact that they were left out of the truce lends some credence to this, since they and their associates were from powerful Bayonnais families. However, the truce stipulated a collective amnesty which counted for all implicated, and the provision that the local government should examine the case itself was not a guarantee for success for the brothers. While the

⁷² TNA SC 8/193/9620.

⁷³ RG, IV, no. 1783, p. 520.

⁷⁴ TNA C 61/32/29.

Bayonnais government might be inclined to help their citizens, whatever help was accorded was to be paid by the town itself, and 1,700 marks sterling was a considerable sum. What in the end makes me believe the general course of events described by the brothers is the killing of several named merchants from an influential Bayonnais family, even though it is quite possible that the Bayonnais were engaged in piracy themselves. Thus, they might have caused the Norman attack by their own actions.

Piracy and the War of Saint-Sardos

The truce did not hold for long, but it was not until the winter of 1323–24 that a breach was severe enough for the royal authorities to act upon it.

At the beginning of January 1324, the seneschal of Gascony, Ralph Basset, informed the French king Charles IV's envoys that (apart from the problems concerning the *bastide* of Saint-Sardos) a conflict between the Normans and the Bayonnais had erupted because of Norman aggressions. He asserted that the Normans had launched attacks on the Bayonnais, and presumably in 1323 at Tonnay Charante they plundered several Bayonnais ships, and Bayonnais mariners were killed despite the goods and ships being under the French kings' protection, presumably signalled by *panonceaux*.⁷⁵ Basset asserted that the Norman aggressions grew daily, and at Loyra (probably Leure) thirty-three Bayonnais mariners had been imprisoned despite their innocence, and at the same place mariners had been killed, ships burned and goods plundered. Nonetheless, the Bayonnais had refrained from retaliation due to the truce. However, Basset doubted that the Bayonnais would stand for this much longer, as some people were beginning to consider the truce breached. He therefore urged Charles IV to take action to stop the Norman depredations.⁷⁶

Basset's letter was a reply to a French summons from 23 December, in which Charles informed the seneschals of Poitou and Saintonge and two sergeants (*servientibus Regis*) that the Bayonnais were cited to appear at Saintes, since they had breached the truce by attacks on Norman mariners. The fine for this breach was £50,000 sterling, almost two-thirds of the English king's income in the 1290s during the Gascon War. Thus, Charles instructed the seneschals and sergeants to inquire into the details of the

⁷⁵ The *panonceaux* were batons embellished with fleur-de-lis signalling the French king's safeguard of, amongst other things, castles, houses and ships. Cheyette, "The royal safeguard," pp. 645–649, Kaeuper, *War*, pp. 241–242.

⁷⁶ *Saint-Sardos*, no. 9, pp. 7–10.

Norman allegations and to assess, judge and punish in a terrifying manner the transgressors, in order to arrest their goods and uphold the king's laws. Furthermore, they were to arrest the goods of suspects. On 12 January 1324, Charles additionally informed the officers that the Bayonnais mayor and certain shipmasters and mariners had been adjourned to appear in court in Saintes on 7 February to hear charges against them. This citation was to be announced publicly in Bayonne so that no one could claim ignorance. Likewise, the Normans were also to be adjourned in Saintes. Charles had furthermore prohibited both parties from continuing their struggle on pain of body and goods. This citation was announced publicly in Bayonne on 14 January 1324, but the Bayonnais replied that they had no intention of going to trial in Saintes, since they only recognised the English king as their overlord. In addition, they claimed that the citation was a violation of the customs of Bayonne and that the French king had no jurisdiction in Gascony.⁷⁷ On 23 January, Basset informed Edward of the Bayonnais' refusal and urged him to pursue an amicable solution with representatives of both kings (rather than judgement solely by French officers, as the case had been in 1310 in Périgueux).⁷⁸ On 1 February, Edward wrote to Ralph Basset and Adam Lymbergh, constable of Bordeaux, to ask them to intercede in the conflict between the Bayonnais and the Normans and try to negotiate a solution that would maintain the peace,⁷⁹ but apparently with little luck. In August 1324, French forces invaded Gascony and defeated the English forces there. In October 1324, Edward's proctor in Gascony wrote to him to remind him of the Gascon liberties in the negotiations with the French and to protect them, since the French had claimed the right to judge the Bayonnais based on their assertion of the French king's sovereignty over land and sea, that is, the territory of the French kingdom and the seas bordering it.⁸⁰

These issues were never resolved, since Edward was facing rebellion at home which ended with his abdication on 24 January 1327. In February, a truce with France was entered into, and by September 1327 an unfavourable peace for the English was agreed. Of special interest for the subject of the maritime conflict was that Edward III had to pay the French 50,000

⁷⁷ *Saint-Sardos*, no. 13, pp. 12–15.

⁷⁸ *Saint-Sardos*, no. 14, pp. 15–17.

⁷⁹ *Saint-Sardos*, no. 17, p. 18.

⁸⁰ *Saint-Sardos*, no. 68, pp. 84–88.

marks sterling as indemnity for the damages during the war, even though amnesty was provided for the Anglo-Gascons indicted.⁸¹

At the beginning of the 1330s,⁸² Edward III wrote to Philippe VI in connection with their plans for crusade and asked him to forbid reprisals, as he was bound to according to the Anglo-French agreements. The letter contained several references to reprisals and the problems that they posed. Firstly, Edward wanted Philippe to forbid the use of reprisals by the marcher lords and their subjects, as agreed at Amiens in 1320, since these entailed the punishment of innocent persons, while the malefactors remained unpunished. Secondly, Edward wanted all criminal processes commenced during the reign of their predecessors to be changed into civil processes, and all corporal and monetary punishments to be changed into amicable processes of reciprocal restitution. Thirdly, Edward requested that Philippe issue safe conduct to all English officials and subjects who were to pursue cases in French courts.

Philippe presumably replied that his officers had sufficient “mandement et defense a surseer” in all these cases.⁸³ How Philippe interpreted this is difficult to say, but in 1331, an order from the French king to the provost of La Rochelle stated that according to the custom of the sea used by the English and the French, the royal officers of the ports in case of English piracy against French (or vice versa) were to conduct arrests of the goods of the fellow citizens of the pirates (*les robbours et maufesours*), in cases where the pirates could not be apprehended. The *dorse* of the letter interestingly stated that this was contrary to the English declaration of superiority over the English seas.⁸⁴ Thus, Edward III continued his father's and grandfather's policies of changing corporal punishment and reprisals into monetary punishment and amicable solutions. The French do not seem to have been completely reluctant to follow this model. At least the claim in 1324 of £50,000 sterling as a fine indicates a movement towards purely economic punishments.

⁸¹ Vale, *Origins*, p. 248. For some of the conditions of the peace, see *Foedera 1327–1344*, pp. 700–701.

⁸² Probably in 1331 in connection with Edward III's homage to Philippe VI. Sumption, *Trial by Battle*, p. 116.

⁸³ *EMDP*, I, 388.

⁸⁴ Chaplais, “Reglement des conflits,” pp. 297–298.

LEX TALIONIS AND THE ENGLISH REFORM OF PUNISHMENT

There was thus a clear development in English maritime peace treaties from a *lex talionis* model of punishment for transgressors of the peace to a model of punishment based on fines and incarceration. Furthermore, there was a development from holding the individual malefactors accountable to the municipal governments being held responsible and ultimately accountable for the acts of their citizens. These initiatives may also have been present in France but in a more moderate version.

In the following I shall briefly discuss the nature and shortcomings of the *lex talionis* model. Then I will compare it with the one of fines and municipal responsibility, which I will henceforth call the “the English model”.

In many ways, the *lex talionis* model resembled the criminal law statutes used on land in regard to violent and rapacious crimes. What made these maritime punishments somewhat different was the inclusion of regulations on debt recovery and the obligation of the fellows of the transgressor to give him up for punishment and to collaborate with the other party. In principle, this model sent the message that under no circumstances would the authorities tolerate such violent and self-serving behaviour. However, since the governments were not actually able to enforce the punishments declared in the treaties, and since the local officers were often liable to side with one group of mariners against another, these draconic punishments actually resembled a claim to the potential power of the royal judicial prerogative more than an actual order. Furthermore, in relation to actually making conflicts stop, the severe punishments seem to have been counter-productive. In effect, the *lex talionis* model could exacerbate the conflict by demanding that crews act against their fellows. If the crew found that a ruling was unfair and that they were subject to an injustice, instead of helping the authorities in “enemy territory”, they might instead decide to defy these authorities by resistance and evasion, thereby exacerbating the conflict instead of quelling it. Indeed, it is hard to imagine that the crews would actively give up a fellow to authorities whom they might not trust or who they felt had treated them wrongly. Even if they escaped or were forced to collaborate, upon return to their homeport, the mariners might spread the story of the injustices suffered in the foreign ports leading to retaliations against mariners of these ports. Thus, the *lex talionis* model could actually exacerbate the disputes and wars rather than extinguish them. Indeed, this model may have played an important part in the mariners’ wars, since the assumption of an unjust

accusation and execution of punishment would—instead of curbing and discouraging future offences—make previously unaligned compatriots rally and take collective offensive action because of a perceived threat to (and perhaps also an insult to the honour of) their maritime community. In addition, the mariners' associations would most probably invoke obligations of mutual support in the face of danger. Thus, the *lex talionis* could in fact be a stimulus to maritime war.

By using the English model and ultimately holding the local government responsible for the crimes of their citizens, and by using non-lethal means of punishment, in terms of pacification of maritime wars this model represented progress. It is not surprising that it was the English authorities who came up with this solution. Firstly, England, as opposed to Continental Europe since the Norman invasion in 1066, had prohibited all wars but the king's, and she had a tradition of a royal justice system applicable throughout the realm rather than a local, custom-based one for each fief or region. Secondly, as an island England was much more dependent on sea-borne trade and supplies than the Continental kingdoms. Consequently, England was much more touched by and embroiled in maritime wars and piracies than any other kingdom in northwestern Europe. It is therefore no surprise that the English had more experience in handling maritime conflicts and more interest in permanent solutions than any other kingdom in these waters. However, the English model was the product of pragmatic, not idealistic, considerations, since English justice was not as such more reluctant to employ corporal and death penalties than the Continental justice system. It was simply the product of a realisation that the claim to harsh penalties for transgressors of maritime peace was, in the end, more an embarrassment to the royal government than a peacemaking instrument, since the kings repeatedly demonstrated that they would not in practice enforce the draconic tenets of the treaties.

The French kings' reactions were more ambiguous. On the one hand, they seem to have realised that the English model was a sensible one and to a certain extent seem to have applied it. On the other hand, after the Gascon War, the French kings, and particularly Philippe le Bel, saw the potential in having minor conflicts with the English which could be used to justify further encroachments on Gascony.

In regard to Castile, the kinship between the kings of England and Castile may have given the Castilian governments more impetus to uphold the peace, but the royal power in the first decades of the fourteenth century was lacking. This meant that they could not in practice carry out what they had pledged in the treaties.

It seems as if the English approach in the period from 1280 to 1330 was to transform the *lex talionis* into pecuniary punishment and incarceration, probably to minimise future rancour and lust for revenge, in a sense to better facilitate the amnesty and amnesia required for a successful application of peace. I suspect that the minimising of bloodshed could have had a diminishing effect on the will to fight. This seems probable to me in theory at least, but the results and the sequence of negotiations, truces and peace agreements shows that it was by no means a guarantee.

Another reason for applying the English model was that it dismantled the recourse to private reprisal and retaliation. While both the *lex talionis* and the English model were based on the principle of collective liability, the English model extended the responsibility to the municipality as well as to individuals. By abstaining from corporal punishment in the treaties and trying to reduce the recourse to reprisals, the English model in effect made private actions of reprisal and retaliation less acceptable, since the municipal government would ultimately be responsible. Thus, it is quite likely that the reforms of the Bayonnais *Societas Navium* were at least in part founded on the English change in peace procedures.

However, these treaties and their aftermath show how fragile these attempts really were and how futile it was to try to secure an enduring peace amongst mariners. This could thus be construed as a complete failure to obtain any sort of durable peace. On the other hand, as Keen has shown in his studies of the laws of war, no agreement had any real ambition of actually stopping a conflict for good.⁸⁵ Rather, disputes and minor trespasses were to be expected and were a constant which could be continually negotiated and limited by the reprisal system of arrest and reprisal. What the treaties aimed at was therefore not the total cessation of hostilities, but rather the quelling of disputes before they developed into large-scale retaliation. An interesting comparison to this is Vale's studies of the bellicose Gascons. He notes about the problems of the English and the French kings in making peace amongst the Gascons that:

A society inured to private war and frontier raids was unlikely to respond with alacrity to the imposition of 'perpetual peace' because the nobility had come to regard the *droit de guerre* and its practical expression not only as their inalienable right but as a way of life. It was a ready source of profits, and land lying on the borders between lordships, like those in the Scots marches, could supply lucrative plunder, booty and ransoms.⁸⁶

⁸⁵ Keen, *Laws of War*, pp. 207–217.

⁸⁶ Vale, *Origins*, p. 126.

This also seems to have been applicable to the English and the French mariners. Whether one model of settlement or the other was used, the governments had to contend with people living in an ungovernable maritime world and with the will to retaliate if they felt slighted. Thus, despite all the efforts of the governments, it was just as hard to make the mariners abstain from *guerra* as it was with the nobles on land. In fact, while the English model from a government perspective was more realistic and efficient, to the mariners and especially their communities it was repulsive and an attempt to diminish their independence. But even if the kings did not achieve lasting peace with either model, the peace served another purpose, as pointed out by Kaeuper and Gauvard, namely to strengthen the growth and power of the royal government over the realm.⁸⁷ By increasingly getting involved in the negotiations of peace between the ports of the different kingdoms, officially to protect the ports from being unjustly treated by the opponents' monarch, it had strengthened the royal power over the ports.

⁸⁷ Kaeuper, *War*, p. 189.

CHAPTER EIGHT

CRIME AND LACK OF PUNISHMENT?

The royal authorities were at odds with what to do with pirates. They were granted general pardons in the peace treaties, reserving, however, in some cases harsh punishment for especially infamous pirates. Nevertheless, it would seem that in cases of piracy the usual punishment was not corporal but pecuniary, despite the draconian stipulations in the peace treaties as well as the immediate orders of the kings. This was the result of diplomacy, but how did the royal governments react to piracy in general?

This confusing situation led Marsden to conclude that: "Many of these 'piracy' cases were of a civil or prize rather than a criminal character; restitution of his ship and cargo was the plaintiff's object, and not punishment of the 'pirate'."¹ But why was this so? After all, the Middle Ages was not a period where the rulers were "soft on crime". At first sight, it is incomprehensible that an action which involved (premeditated) robbery and killing could be reduced to a demand for the restitution of one's property.

This is of course partially because of the nature of the Law Merchant, with its focus on civil and financial solutions, but this only answers part of the question. In order to understand this treatment of piracy properly, we have to analyse the nature of the law and its enforcement in the Middle Ages.

VIOLENCE AND KILLING

In the following, I shall rely on French research on violence and robbery in the Middle Ages. While these studies focus on the fourteenth and fifteenth centuries, thus to a certain extent on periods later than the period I study, I have made an effort to use only research results which I feel confident are applicable for earlier periods of the Middle Ages and for England as well as France. While England had a judicial system that differed in some regards from the Continental system, the space where the

¹ Marsden, "Vice-Admirals of the Coast," p. 469.

mariners operated was a march or a judicial no-man's land. Consequently, they acted in maritime conflicts like their Continental colleagues and were part of a Continental conflict culture where private violence was permitted (under certain circumstances), rather than part of an English one where private violence and war were prohibited.

In the article "Violence licite et violence illicite", Gauvard observes that by default, violence should always be perceived rather as a norm than an act.² What Gauvard stresses here is that what constitutes violence (an illicit physical aggression), and what constitutes force (a licit physical aggression), is dependent on society's view of what constitutes the right and wrong use of force. Thus, the perception of the act of one person killing another is dependent on the motives for the killing. If the person committed the killing in order to take the money of the other, the norm in medieval society was that this was a crime and accordingly should be punished severely. However, if the person could claim that the killing was an act of retaliation for an insult to his honour or some other form of self-defence, medieval society looked favourably upon the act and the killer might get off the charge by paying a fine or even be acquitted of the act. Therefore, it is the norms of society that define what constituted illicit violence and what constituted the licit application of force, not the act. In other words, aggressive practices could be sanctioned if the motives were in accordance with the norms for the correct use of physical aggression.

A central issue in Gauvard's research is the status of killing. She distinguishes between "murder" and "homicide". Murder was committed at night and by ambush, often to obtain money. Homicide, however, was a *beau fait* governed by the principle of vengeance, a norm generally accepted in society.³ The opposition expressed here is the one between murder committed under occult circumstances (for example, at night and premeditated) for money, and homicide which was an act of just revenge ("une violence licite fondée sur l'amour"). However, the enmity and the cause for the homicide had to be known to all in advance, and it entailed a certain degree of publicity.⁴ Thus, murder was illicit and condemned; homicide was permissible or at least remissible in return for a fine. In regard to piracy where the victim (and his countrymen) felt that he had been subject to a violent crime, the pirate (and his countrymen) might

² Gauvard, "Violence licite," p. 365.

³ Gauvard, "Violence licite," pp. 378–379.

⁴ Gauvard, "Violence licite," p. 380.

rather feel that he had carried out an act of justified reprisal or vengeance. This at least seems to have been the case with the Normans' retaliations in 1292–93.

This clear judicial division between murder and homicide was especially due to the rise of royal jurisdiction in the twelfth century over local customary law. In criminal law, there was a movement from a *lex talionis* logic to Roman Law where the punishment imposed on a criminal was to set an example and not to be a response in kind.⁵ In effect, what transpired was that capital punishment was primarily applied to violent robbers like highwaymen, more than to killers like avengers.

The effect of the royal judicial initiatives was that the punishment and condemnation of predatory violence and killing became the resort of royal power. In contrast, emotionally and/or socially motivated violence and killing occupied a more ambiguous position. This division was the reflection of a society lacking police forces with universally recognised judicial powers and a single, uncontested government with a monopoly on the exercise of legitimate violence. Instead, honour, that is, the personal integrity, standing and reputation of an individual as well as a family or an association, and the protection of this honour were the concern of the aggrieved. It called for retaliation for its protection. Thus, homicide was not the worst crime that one could commit, since it was the necessary reaction to defamation. It was therefore an act of defence of one's honour rather than a crime *per se*.⁶

In relation to this, the role of royal government was less to exact justice and more to re-establish order. In a society where honour and reputation were more valuable than a human life, the task of the government was therefore not to impose a different order but rather to protect the values of honour on which society *in toto* rested. Indeed, while the *guerra* (the more organised and collective version of the individual act of vengeance) was a menace to public order, the violence that it engendered was founded on a system of values which justified their existence and which took precedence over the royal ideal of peace. The French kings even acknowledged this right, for the nobles had to be shown a certain amount of respect, since they supplied the expertise and bulk force for the king's wars. The French kings accordingly only tried to limit and regulate

⁵ See also Cheyette, Frederic L., "Suum cuique tribuere," *French Historical Studies*, 6: 3 (1970), 296–299.

⁶ Gauvard, "Violence licite," p. 275.

the private war but not to prohibit it completely, since it was a fundamental feature of the exercise of law and order in the country.⁷

Thus, in the thirteenth century, while killing in principle was a capital offence, fines and remission acquired an important role in royal jurisdiction. In a society governed by vengeance and honour, the goal of the judicial authorities and indeed the royal government was to make the punishment acceptable to both parties in a conflict, re-establish order and stop the vicious circle of retaliations. This is in effect the same principle that we find in the peace treaties and the (perceived) requirements for their successful application. Consequently, the goal of the justice system was rather to assure a successful settlement and public order than to condemn violence.⁸

This is not to say, however, that killings were always pardoned by the authorities. In theory, murder and homicide were both capital crimes and should be punished as such. Nevertheless, homicide often evaded this strict penalty, since the public perceived it as just retaliation (*a beau fait*) and a just response to an insult and injury to one's honour and reputation. Failure to address this would result in loss of honour and respect in society. Gauvard gives the example of the rape of a girl. If this act was not avenged in public by her family, the girl would be considered a prostitute or at the very least have lost her value as an attractive object of marriage.⁹

This understanding of justice and violence is also very visible in the way in which judges, lawyers and courts handled these cases. These quite learned jurists were, despite their familiarity with the legal classics, extremely careful with their words. Indeed, while the officers of the king as well as the accusers' lawyers had an obvious interest in having the accused condemned, they nonetheless used incriminating discourse quite sparingly. For instance, the term *scelus*, known from Roman Law and used especially in the Digest, does not appear in the classifications used by the practitioners of law in the *Parlement*. Therefore, it seems that criminal cases were treated with extreme caution in regard to the words used for describing the actions of the accused.¹⁰ Thus, to pronounce the word "crime" in court was a taboo, for once it had been uttered, it was

⁷ Gauvard, "Violence licite," p. 276., Firnhaber-Baker, "Seigneurial War," p. 60.

⁸ Gauvard, "Violence licite," pp. 267–268.

⁹ Gauvard, Claude, "Nommer les crimes et les peines," in C. Gauvard, *Violence et ordre public au Moyen Age* (Paris, 2005), pp. 43–44.

¹⁰ Gauvard, "Nommer," p. 40.

extremely difficult to withdraw or pardon the act—even by royal intercession. Since the objective of the courts was the establishment of a settlement and order, the lawyers were reluctant in the extreme (even the accusers) to push for a conclusion that, instead of settling the conflict, exacerbated it. Hence, the subtlety of the words used in trials, for while accuser and defendant obviously tried to achieve the best result for their client, the consideration for the establishment of order was the primary concern. This relegated individual justice to a secondary position.¹¹ The procedure was in no small part due to the fear that medieval legal thinkers had of the trial as a means of dispute settlement. In the writings of the learned jurists, the trial was perceived as a kind of weapon in the hands of a malignant accuser whose purpose was not to establish peace but to strike a blow against his adversary. Consequently, the trial as such was not a peacemaking instrument, but an extension of the means of revenge.¹² The lawyers therefore had to control the process and seek an amiable solution to obtain peace rather than seeking a victory for their client.

In principle, the judges and advocates were pledged and had as their official goal to establish the truth in all cases, yet in practice their actions indicate that they were more concerned with the re-establishment of peace than the punishment of criminals. In the end, these conditions made the trials more into a debate than a proceeding for the establishment of truth and the carrying out of justice. Thus, the negotiation of the punishment contributed to the resolution of the conflict, and it tended to make the trial into a *champ de joutes oratoires* where the honour of the aggrieved party was repaired and the potential vicious circle of vengeance was ended. However, Gauvard writes that while the quest for the truth was secondary to the necessity of assuring peace, sometimes severe punishments were meted out. This was done to set an example, and to show the potential severity of punishments and to justify the compromises that made up the major part of suits presented in court.¹³

In the end, what often led to one criminal walking free and another being condemned was the reputation, honour and status of the individual rather than the act itself. Indeed, it was the personal reputation and motive that mattered, not the act. Therefore, the judicial system was quite reluctant to inflict harsh punishments on respectable and “peaceful”

¹¹ Gauvard, “Nommer,” p. 41.

¹² Mausen, Yves, “‘Pugio malignitatis’ violence du procès et prudence de la procédure,” in F. Foronda et al., eds *Violences souveraines au Moyen Âge* (Paris, 2010), p. 10.

¹³ Gauvard, “Nommer,” pp. 44–45.

citizens, whereas vagabonds and other inherently suspect persons were often submitted to the full rigour of the law. In this view, society consisted of two categories of people: those susceptible to be condemned and punished harshly, and the respectable citizens whose actions were the consequence of unfortunate circumstances. The purpose of the lawyers was thus to make their client move from one category to the other, either to obtain a conviction or an acquittal. In this judicial construction from the speech in defence to the sentencing, the words used were of paramount importance. They were not destined to define a crime as much as they defined a state, and their purpose was to establish a watertight human stereotype.¹⁴ Gauvard's division between murder and homicide and the way in which these acts were treated in court resembles the sociologist Charles Tilly's concept of a "continuum of violence". He argued that acts of violence cannot be seen in a binary manner as violence (illicit) contra force (licit), but rather as a sliding transition between two. Here the legitimacy of acts of violence is dependent on who did them and their context.¹⁵ Thus, in order to obtain a conviction or an acquittal, the lawyer had to move a person from one category to another. The same concerns seem to have been present in the dealings with bellicose mariners, where most, as we have seen, were acquitted not only because of the impossibility of punishing all pirates, but also because most had normally honourable occupations as merchants and mariners and a respectable reputation.

ROBBERY AND THEFT

The problem with the courts and the words used there also exists when we are dealing with the other fundamental element of piracy: robbery.

¹⁴ "Dans cette construction qui se poursuit de la plaidoirie à la sentence, les mots sont essentiels: moins destinés à définir le crime qu'à définir un état, ils usent de leur force pour donner peu à peu corps à un stéréotype humain aux barrières infranchissables." Gauvard, "Nommer," p. 46.

¹⁵ Tilly, Charles, *The Politics of Collective Violence* (Cambridge, 2003), pp. 27–28, "For the purposes of explaining violent interactions, however, the distinction between (legitimate) force and (illegitimate) violence face three insuperable objects. Firstly, the precise boundary of legitimate force remains a matter of fierce dispute in all political systems. ... Second, in practical experience a long continuum runs from (1) duly licensed governmental actions whose propriety almost everyone accepts through (2) derelictions by governmental agents to (3) damage wrought with secret support or encouragement of some segment of some government." While Tilly focuses on governmental agents here and analyses use of violence in a nineteenth-twentieth century context, the principle is equally applicable to medieval society.

Contrary to killing, proven theft with no framework of war or reprisal of lost goods was deeply reprehensible. From the twelfth and thirteenth centuries, the communal legal documents ranged theft in the category of *magna forefacta*,¹⁶ and, as with murder, it was often associated with obscure and nocturnal activities.

In the Middle Ages, the distinction between whether a theft had been committed with or without the use of violence was often blurred. However, in the thirteenth century, a distinction appeared between theft and robbery and between thieves and brigands (violent criminals). This distinction was dependent on whether or not violence was used in the act. In the Second Council of Lyon 1274, robbery was defined thus: "By the word 'robbed' we wish to be understood in this case a criminal accusation whereby someone declares that he has been stripped by violence of all his substance or a greater part of it".¹⁷ However, in the thirteenth century following Roman Law, the medieval writers began to use the words *rapere* (Latin) or *rapine* (French), both meaning seizure and plunder for all acts of theft committed with the use of force. This distinction was also present in Thomas Aquinas's reflections on *fures* (thieves) and *latrones* (brigands). Aquinas concluded that theft, robbery and rapine had the same goal but that they used different methods to achieve it. However, since the damages caused by rapine and robbery were much more serious than those of theft, robbery was more abominable than theft. The argument was that violence was a direct action whereas theft was considered executed by a ruse or legerdemain. Thus, Aquinas concluded that there was a difference in kind between robbery and theft, since rapine/robbery added an injury to property, honour and liberty to the already natural criminal act of theft.¹⁸ Nevertheless, a difference in words could be seen and especially the word *roberie* (robbery) was incriminating. Indeed, the word used in the *Parlement de Paris* for acts that would solicit the granting of a letter of marque was an act of *roberie* (*roberia*).¹⁹ Thus, piracy was unmistakably in this reprehensible category. On the meaning of the word *roberie*, Valérie Toureille writes that "desroberie" or "roberie" was borrowed directly from the Germanic vocabulary on war. Roberie had its origins in the word

¹⁶ Toureille, *Vol et brigandage*, p. 23.

¹⁷ "Illum autem spoliatum intelligi volumus in hoc casu, cum criminaliter accusatur, qui tota substantia sua vel maiori parte ipsius per violentiam se destitutum affirmat." *Decrees*, I, 286.

¹⁸ Toureille, *Vol et brigandage*, pp. 37–38.

¹⁹ Chavarot, "Lettres de marque," p. 51.

rauba, which signifies booty and plunder. On *rauba*, Toureille notes that it is the act of robbery (*rauba*) which is at the origin of the word for the garment “robe”, since *rauba* in its original meaning implied that one was robbed to the bare skin. In the thirteenth century, Norman customary law defined robbery primarily as an assault on a person’s life and health and only secondarily as an attempt on one’s belongings. Thus, robbery represented a sacrilegious crime since it violated the peace of God and consequently the lord’s peace.²⁰

Thus, robbery was distinguished from theft and became almost synonymous with rapine and plunder, that is, a theft carried out with aggressive means. By definition, *roberie* implied the use of violence. From the end of the thirteenth century, *robeurs de chemins* appeared in the *Coutumiers* with murderers.²¹

In regard to pirates and piracy, this information is at the same time illuminating and perplexing. While killing could and probably was often justified as some sort of just retaliation, the act of robbery was clearly criminal, yet still pirates were not indicted and most of the time did not suffer capital punishment. A case related to piracy and the dispute between the Normans and the Bayonnais in 1323 and 1324 was the plunder of the house of the Bayonnais, Pierre-Arnaud de Saint-Savinien, in Saintes by the Harfleurais Michel Hay and his Norman companions. Consequently, Michel had been imprisoned in Saintes, but he broke prison and escaped. Michel Hay then made a deal with the seneschal of Poitou that he would be granted pardon and acquitted, provided he paid a fine of 300 l.t. This agreement was acknowledged by the Parisian *Chambre de Comptes*. Thus on 18 June, Charles IV formally granted Michel Hay pardon. However, nothing in the case is said of satisfaction to Saint-Savinien, just that the Norman and his pledges had been acquitted of the robbery (*roberie*) and the escape from prison.²²

This may also explain why the merchants in their petitions demanded the resolution of the cases by Law Merchant, with a clear system for restitution and a solid foundation, not in criminal law, but in civil financial transactions ultimately in the form of debts and their recovery. While the merchants might have felt sorely aggrieved, unless they came from powerful, bellicose maritime communities like Bayonne, the Norman ports or

²⁰ Toureille, *Vol et brigandage*, p. 39.

²¹ Toureille, *Vol et brigandage*, p. 40.

²² Printed in Goyheneche, *Bayonne*, pp. 529–530.

the Cinque Ports, realistically the best and most secure way of obtaining restitution was to pursue the financial side of the quarrel and accept the human losses. In fact, if in turn the aggrieved had recourse to reprisals and retaliation without royal backing, they ran the risk of getting killed in the process, and they furthermore risked getting embroiled in a conflict where tit-for-tat actions might eventually bring them more loss than benefit, economically as well as in human lives.

IMPRISONMENT AS PUNISHMENT

In the previous chapter, we saw that in the first decades of the fourteenth century the English, in particular, introduced two innovations in the way that mariners were punished for piracy and maritime war. The first was the transfer of the ultimate responsibility for restitution from the transgressor himself to the local government of his home port. The second was the shift from corporal punishment to imprisonment. While it is hard to determine to what extent the English royal authorities actually enforced these sentences, the ideological change in itself is remarkable. It signalled a new way of dealing with maritime justice and punishment.

In the High Middle Ages, imprisonment was a rare punishment usually meted out to debtors of counts or kings. It included both the bodily custody of the debtor to make sure the debt was paid and a punishment for the audacity of delaying payment to the lords. Nevertheless, imprisonment even in these cases was rare. The imprisonment of nobles for many years was expensive, and it was only used if no other option existed. For commoners the punishment was even rarer, as execution was cheaper and more efficient. Thus, imprisonment was usually only used for people awaiting trial.²³ Furthermore, the notion of incarceration as a punishment (especially lifetime) was abhorrent to lawyers and to Roman Law.²⁴

However, during the thirteenth and fourteenth centuries, the Italian city-states increasingly began to use incarceration as punishment, and it is possible that the English were inspired by the Italians for this penal practice.²⁵ The reasons for the English change may, however, also have been due to more practical considerations. Simply put, dead men do not trade,

²³ Dunbabin, Jean, *Captivity and Imprisonment in Medieval Europe 1000–1300* (New York, 2002), pp. 98 and 102.

²⁴ Geltner, Guy, *The Medieval Prison* (Princeton, 2008), p. 45.

²⁵ Dean, *Crime*, pp. 120–121.

pay customs or supply ships for naval service. Furthermore, the English kings might have feared to alienate their maritime subjects, as any rebellion on their part could bring catastrophe to the security of the realm, as was evident in the 1210s and the 1260s with the Cinque Ports. It was not only in Italy and England, however, that incarceration as punishment was increasing. In 1303, Philippe le Bel authorised imprisonment for debt in the royal jurisdiction. This imprisonment could only be carried out, though, if the creditor had a contract with a royal seal, that is, on approval stating that imprisonment would be the result of failure to pay back the loan. While this could be seen as a security institution in an expanding credit market, Claustre points out that it also had the effect of strengthening royal authority throughout the kingdom.²⁶ As with the procedure of arrest and letters of marque, this initiative was effectively a governmental imposition into an area hitherto regulated between private persons.²⁷ Thus, as with reprisals and marque, this measure should be seen as a government initiative to regulate a practice that already took place anyway. Furthermore, the punishment of imprisonment not only meant the bodily custody of a person. It was also a social scandal which seriously damaged the honour of the person, not least because failure to repay debts was assimilated with theft. Thus, royal justice considered imprisonment a kind of torture which should be (and was) feared.²⁸

PUNISHMENT AND PIRACY

Cases of persons punished for piracy in the Middle Ages are rather hard to come by. In the Anglo-French sources for the period 1280–1330, only a handful can be found. Furthermore, it is difficult to determine if the punishment was meted out for piracy specifically or if piracy was just one crime amongst several others. In other words, it is hard to isolate the exact punishment for piracy from other crimes.

The first thing that strikes one is the almost complete absence of capital punishment in the sources, despite the fact that pirates killed and robbed. These were crimes which the medieval authorities by no means condoned nor usually let go unpunished. According to Marsden, the only documented death sentence for piracy in the English sources before the

²⁶ Claustre, "Dette," p. 797.

²⁷ Claustre, "Dette," p. 814.

²⁸ Claustre, "Dette," pp. 817–819.

sixteenth century was the hanging of William Briggeho in 1228 for consorting with pirates (*malefactores*). What was meant by consorting (*pro consensu*) is unclear, but it probably refers to him as a fence or in other ways a co-conspirator of the pirates.²⁹

While Marsden is certainly right in noticing the almost complete absence of capital punishment for piracy in the Middle Ages, I have been able to locate a few more cases. However, the exact way in which they should be interpreted is circumstantial. Thus, in 1294, a lay-brother and keeper of the ship of the Abbey of St. Mary in Dublin, John le Jeune, was hanged for robberies, presumably piracies. The ship was forfeited to the king, and then was granted to Peter de Parys, a merchant of Yoghel, Ireland, on the condition that he answered anyone having rights in the ship.³⁰ Likewise, in 1321, protection was granted to one Richard Brian of Bardestaple, his men and his ship, presumably because the ship had been acquired by forfeiture to the king from the former owner, John Kytty, for his and his men's diverse felonies in the realm (possibly piracies), for which they had been convicted and hanged.³¹ The need for protection was probably a safety precaution for Richard to avoid being attacked by the vindictive victims of Kytty.

A reason for the scarcity of sources for capital punishment may be because punishments for piracy were meted out directly on the spot in the ports by local officers and/or enraged locals.³² Consequently, it did not leave any trail in the sources. The stipulations in the peace treaties of the *lex talionis* model, as well as a lynching in Norway in 1303, certainly indicate this possibility. That year, Edward I wrote to King Håkon V of Norway explaining that two merchants of Scarborough had hired the shipmaster John Mus of Fivelee to take to the sea to fish. Due to contrary winds, the ship had driven to Northbene(?) in Norway, where John Mus was hanged for a previous piracy committed against one Swayn Tungesheved. In addition, the Norwegians had arrested the ship and its load of fish to the value of £100 sterling, which then had been forfeited to King Håkon. Since the ship and fish did not belong to John Mus, Edward demanded restitution for the merchants, but he did not complain over the execution of the shipmaster.³³

²⁹ Marsden, *Law and Custom*, pp. 6–7.

³⁰ *CPR 1292–1301*, p. 60.

³¹ *CPR 1317–1321*, p. 563.

³² Dumas, *Étude*, pp. 34–35.

³³ *CCR 1302–1306*, p. 46.

Because of the scarcity of evidence and the general impression that piracy was rarely punishable by death, the cases of the English treatment of the Boulonnais pirate/privateer Eustache le Moine and especially of the French vice-admiral, Nicolas Béhuchet, in 1340 after the Battle of Sluis has puzzled historians. Mollat interpreted the execution of Eustache as an expression of the disgust felt by contemporaries for pirates, but against this Ciceronean view Russon has argued that the hanging from the yard-arm of the captured Béhuchet was rather an expression of the vindictive English conception of maritime justice, rather than expressing a particular hatred of pirates. Furthermore, the execution had the benefit of getting rid of a dangerous opponent once and for all. This was possible because neither Béhuchet nor Eustache were part of the high nobility.³⁴ While Russon is right in stressing the vengeance aspect, the actual reason for the hanging was rather a reaction to Béhuchet's ferocious attacks on the English south coast in 1338–40, where he brutally executed captive English mariners.³⁵ This treatment made him pass from a legitimate combatant to a violator of the conventions of the treatment of prisoners of war. As for the execution of Eustache le Moine, it is quite possible that this occurred because at least some English considered him a traitor.³⁶ He therefore did not merit the treatment normally conferred on vanquished foes.

The English sources contain slightly more evidence for the imprisonment of suspected pirates. In 1311, thirty-eight persons were imprisoned in Ipswich and put on trial for piracies at sea in the port of Yarmouth, co. Suffolk, against English and Flemish merchants.³⁷ However, the fate of these suspects is unknown.

In another, more complicated case, imprisonment was also used against people suspected of having committed piracy. In 1316, two English royal officers were ordered to inquire amongst the merchants and other prominent men in the West Country into who had plundered two Flemish ships at Crozon, Brittany, and who in England had afterwards received the pirates (and bought their goods). The two commissioners were ordered to find and imprison the pirates and presumably confiscate their loot. This inquiry was carried out because the Bordelaise citizen, Perrota Brune de Solar, had sent a ship to Flanders before Louis X's war with Flanders (where the English were allied with the French against the

³⁴ Russon, *Côtes*, pp. 293–294.

³⁵ Sumption, *Trial*, pp. 247 and 327–328.

³⁶ Roger of Wendover, *Flores*, vol. IV, pp. 28–29.

³⁷ *CPR 1307–1312*, p. 373.

Flemings and the Scots) with 192 tuns of wine to the value of £550 sterling. This wine had been arrested by the Flemish authorities in the port of Damme. Therefore, Edward reacted (at the request of Perrota's attorney) to the Flemish arrest by ordering the arrest of English mariners who had plundered Flemings. In this way, Edward hoped to obtain restitution for Perrota by paying back the Flemings who would then (hopefully) release Perrota's ship and wine.³⁸ In other words, had Perrota not suffered arrest, it is unlikely that Edward or the royal authorities would have done anything against the English pirates.

This case seems related to the issue of extradition of people suspected of piracy to foreign justice. I have only come across one explicit demand for extradition, and in this case the demand had more to do with power politics than the execution of justice. In 1311, Philippe le Bel demanded the extradition of English mariners for the plunder of Rochelais merchants. Edward II would under no circumstances extradite the mariners, but eventually the English authorities found the mariners, and they were forced to give the Rochelais full restitution.³⁹ Nothing in the sources, however, shows that the mariners were ever punished in any way, even though they were identified. In the end, the piracy had been an operation from which no punishment was to be feared.

We should not doubt, however, that the royal authorities in principle, and sometimes in fact, pursued pirates. Thus in 1324, Edward ordered two royal officers (one of them the sheriff of Norfolk and Suffolk) to arrest six named and an unknown number of unnamed persons who had attacked a ship laden with the king's fish to the value of £60 sterling between Deford and Lynn. These mariners had killed the crew, plundered the ship and taken it to Sheford, co. Sussex, where they sold off at least some of the goods.⁴⁰ What fate Edward had in mind for the arrested is not known. The order only stated that they were to be held in custody.

The use of pressure on the local government in the ports by the royal authorities does not seem to have been merely a hollow declaration in the treaties, nor do these authorities seem to have been wholly indifferent to stopping their countrymen's piracies. In 1323 or 1324, a Castilian merchant, Martin Perez, had been plundered by men from Sandwich on the sea-coast of that town. Hence, Edward ordered the mayor and bailiff

³⁸ *CPR 1313–1317*, p. 490.

³⁹ *CCR 1307–1313*, pp. 445, 486–488 and 565, *Foedera 1307–1327*, pp. 146 and 149.

⁴⁰ *CPR 1321–1324*, p. 390.

of Sandwich to make satisfaction to Martin, which had not yet been done. Therefore, Edward ordered five men from Sandwich to make satisfaction to Martin by themselves or by the pirates of the 200 marks loss which he had suffered. These five asked Edward to compel the pirates to contribute to this amount (which the five apparently otherwise were obliged to pay even though they were innocent). Therefore, Edward ordered the mayor and the bailiffs to call before them all those whose names were supplied by the five and to compel those found guilty to contribute.⁴¹

However, even when the pirates were identified, punishment for piracy was not the norm, as is shown in the case of piracy against William Servate by the Flemings in chapter 2.⁴² No punishment for the pirates was demanded, and presumably none was made despite the fact that what was at hand was violent robbery at sea of goods destined for the king.

In the previous chapter, we saw that pardons for piracy were relatively easy to obtain—especially if one was a prominent member of a port community and supplied ships and expertise for naval service. An example of this can be seen in 1322, when Edward II granted a pardon for all offences committed on land and at sea (that is, piracy) to Stephen Alard, Robert Alard and Robert Batayle, prominent citizens of Winchelsea, infamous pirates and later royal admirals.⁴³ The pardon was most probably given to assure their service with their ships against the Scots, who were threatening English shipping. In 1294, at the outbreak of the Gascon War, something similar occurred when Edward granted a pardon to convicted pirates on the condition that they accompanied the king to Gascony and served in the war against France.⁴⁴

This also seems to have applied to a certain extent to the French authorities. In 1296, Philippe le Bel ordered the Vicomte d'Avranches to go to Brittany to find Bayonnais guilty of piracies against the French in general and specifically against the Normans.⁴⁵ No Bayonnais were actually apprehended on this mission, as all those suspected were cleared of charges. However, this mission cannot be taken as part of a general operation for the suppression of piracy, but rather as a one-time procedure to punish Bayonnais pirates for their past actions against the French and the king's officers. Thus, it was rather a measure applied during the war with

⁴¹ *CPR 1324–1327*, pp. 30–31.

⁴² *CCR 1302–1306*, pp. 3, 8 and 48–49.

⁴³ *CPR 1321–1324*, p. 107.

⁴⁴ Marsden, *Law and Custom*, pp. 31–35.

⁴⁵ Borderie, "Nouveau recueil," pp. 152–162.

England. The inquiry of Philippe VI to the provost of La Rochelle in 1331 into the customs for the regulation of piracy between England and France likewise testifies to the fact that the problems posed by piracy were not new, but apart from asserting the French king's authority over the sea, it is unclear if any actual measures to reduce piracy were implemented.⁴⁶

Thus, the extremely low risk of getting punished for piracy denotes a royal reluctance to prosecute at least some pirates, and it meant that piracy in most cases seemed an enterprise with little or no risk of punishment.

Finally, to complete the confusing picture of the arbitrary judicial treatment of piracy, the officers of justice were far from being neutral, disinterested civil servants. They were rather corrupt or at least corruptible men, which meant that obtaining justice, restitution and punishment of pirates, who were often citizen in the local port, were few and far between. A blatant example of this is the case already treated in chapter 2, where Bartholomew de Welle was cheated by the sheriffs of London.⁴⁷

In conclusion, what we are dealing with are people robbing, mutilating and killing people at sea, yet we find no or very little evidence of these people being punished for this—at least not as severely as people on land would be for these actions. Why this difference?

First of all, many of the piracies could plausibly be claimed as just reprisals or retaliations for previous attacks on the mariners by the fellow citizens of the victim. Since reprisal and retaliation was a recognised means of action by society when a person had been slighted or if debt was involved, and since the authorities were more interested in the re-establishment of order than justice to be served as such, acts of piracy were punished rather lightly or simply pardoned. Simply put, like with the nobles waging *guerrae*, if the mariners and their communities were important and strong enough, they were pardoned, as if they were waging war. This formally went against the theories of just war, since the ports did not possess the required *auctoritas* to wage war, but it was in accordance with the practical realities.

Secondly, since the kings were dependent on the mariners for a supply of ships for naval war and, especially for England, for the security of the realm, the kings were reluctant to punish the mariners harshly—especially if the evidence against them was circumstantial. In short, the

⁴⁶ See also Russon, *Côtes*, pp. 305–306.

⁴⁷ *CPR* 1312–1317, pp. 147, 231 and 323.

governments must have been afraid of alienating the mariners of the realm. Thus, the relative scarcity of capital punishment for piracy may account for the exemplary punishments as used by the French government in homicide cases to show that homicide in principle was illegal and that the government had the prerogative as well as the will to punish this as severely as possible.

Thirdly, the pirates and piracy were not as such considered a fundamental threat to order in the northern European kingdoms. No distinction was made whether acts of killing and robbery were committed on land or at sea. What mattered were the motives, and like on land, especially with the *guerrae*, good excuses could be found for the actions.

Finally, but by no means least important, was the fact that it was extremely difficult for the authorities to determine the exact course of events during a pirate assault. The accused could often come up with at least a probable explanation for the assault, that is, reprisal, and sometimes he could even prove or at least claim that he was in fact innocent. Thus, in the end, to avoid a protracted judicial procedure and an escalation of conflicts in a tit-for-tat manner, the authorities (and indeed sometimes the victims as well) may have found it more expedient to simply have recourse to financial restitution but with no further punishments apart from the arrest and the forced repayment of the outstanding values. What mattered most was the re-establishment of peace and order, not justice for the individual.

CHAPTER NINE

CONCLUSION

Medieval merchants and mariners are usually portrayed in the historiography as persons only interested in trade, leaving the issues of war to the lords and the kings. Pirates are usually portrayed as the antithesis of merchants, and following Cicero's condemnation of pirates as the enemy of all, traditionally they have been seen as an especially dangerous and repulsive kind of robber who was to be exterminated. This is the product of a hegemonic world order where only the state has the right to use violence, and it is a perception held today as well as when it was formulated in the Late Roman Republic.

However, St. Augustine's conversation between Alexander the Great and a captured pirate expresses another view on piracy. The essence of this conversation is that "pirate" is not a legal category, but rather a subjective term used for one's enemies. The action of piracy itself, whether it was done by a king or a shipmaster, was identical. St. Augustine's description of piracy fits the situation in the Middle Ages perfectly. In this period, the royal governments were too weak to effectively control the means of violence in society, and noblemen in particular often had recourse to private wars (*guerrae*) to protect their privileges and avenge slights of honour. The motives are also present in medieval piracy. While at first glance it appears to have been carried out by robbers, a closer analysis of the phenomenon reveals that in reality the pirates were most often the supposedly peaceful merchants. Consequently, piracy was not the antithesis to trade, it was an integral part of it. The local authorities, the citizens of the ports and the port communities as a whole enjoyed the fruits of it and extended their protection to the pirates.

In the period c. 1280–c. 1330, Bayonne, the Cinque Ports and the Norman ports in particular were engaged in piracy. These ports shared certain defining traits, namely that they had a large fleet of ships at their disposal, geographically they commanded strategically important locations, and they were all secondary ports supplying freight of Gascon wine to the big trade emporiums like Bruges, London and Rouen (and Paris). Since these ports supplied a substantial portion of the ships for the royal navies and because of their geographical locations, the kings endowed them with extensive judicial privileges and immunities, and these ports enjoyed a

close relationship with the kings. This made punishment of them less likely, and consequently the mariners often indulged in piracy.

These ports were often engaged in private or rather maritime wars (*guerrae maritimae*) with commercial rivals, especially over the lucrative wine trade from Bordeaux to northern Europe. Piracy was the primary instrument in these wars. These wars closely resembled the noble private war, not only in the actions of plunder, killing, destruction and public humiliations, but also in their justifications. Since the kings were dependent on these mariners, they often turned a blind eye to these wars until they became so serious that they threatened the general state of peace between the kingdoms.

However, piracy was technically illicit, since it entailed killing and robbery which were deeply reprehensible actions in the Middle Ages. But the laws for commercial and maritime life did not in any way deal with piracy. In the suits concerning piracy, it was judged as if piracy was a purely civil transaction of debt recovery. This was due to several factors in maritime and commercial life. First of all, since the Middle Ages lacked formal credit institutions, the recovery of debt was handled by the creditor himself and violence was often applied in the collection of outstanding debts. In maritime life, this took the form of reprisals, namely the taking back of one's property unjustly acquired by others—theoretically without the use of violence. These and other financial concerns seem in part to explain the recourse to reprisals. However, in practice, reprisals often developed into retaliations; the application of violence in the recovery of possessions repeatedly led to equally violent counteractions, since reprisals and retaliation were based on a principle of collective liability. This meant that reprisals could be carried out not only against the pirates themselves, but also against their innocent countrymen. These in turn would opt for counter-reprisals and retaliations, both to recover their goods and to avenge the assault on them.

The medieval governments knew that they could not stop this practice since they lacked "police" forces and control over the means of violence. Instead, they created an institution of government-licensed reprisal expressed in two different measures: arrest by royal officers, and/or letters of marque which allowed the aggrieved to obtain restitution through the assistance of royal officers by arrests or by private action against the countrymen of the pirates. However, this system in no way stopped the recourse to reprisals. In fact, it sometimes exacerbated the conflicts and started a series of reprisals and counter-reprisals. Rather, it served to exonerate the government for denying justice to their subjects and to

restrain the escalation of violence since it took years to be awarded these government-licensed measures.

The piracies and maritime wars were further stimulated by the politico-legal status of the sea as a border region or a march characterised by overlapping and conflicting jurisdictions by the lords and the kings. In a march, private actions of reprisals and retaliations were the norm for obtaining justice. Thus, when maritime wars had to be settled at the intervention of the kings, they applied the model for dispute settlement used in these marcher regions. These were procedures of equity rather than rigorous law. An example of this is the Anglo-French process of Montreuil in 1306. This process, however, was disrupted by the kings conflicting claims of sovereignty, and the English and French kings seem to have used the process not to solve cases of piracy, but to counter each others' claims of sovereignty. Thus, while piracy was the cause of the process, it was not the real concern of it. On a theoretical basis, these claims of sovereignty were a royal initiative used to negate the marcher procedure and to make the king the sovereign judge in maritime disputes.

Even so, the marcher procedure was the one usually applied in cases of maritime wars. Thus, the English applied it in settlements of maritime wars with the Flemings, the Portuguese and the Castilians. However, during the negotiations in 1309–11 with the latter, a fundamental change in English policy became apparent. The English changed the settlement method from a *lex talionis* model where offences were punished in kind (capital punishment for murder, etc.) to a method of punishment where corporal punishments were abandoned. Instead the pirates were fined or imprisoned. Furthermore, the English changed the level of ultimate responsibility from the pirates themselves to the municipal government of the pirates' homeport. Thus, if the pirates could not pay the fine or if they evaded justice, the local government had to pay. To a certain degree, the French followed this model as well. For the municipalities this was an abhorrent method of settlement and punishment, however, and in their individual treaties they continued to use the *lex talionis* model. Even though the English model in a sense constituted progress in the curbing of piracy, it was dependent on a royal government who could enforce the punishments. If such a government was not present, the new English procedure was useless and, even when applied, it seems to have only limited, but not stopped, the maritime wars, as shown by the prelude to the War of Saint-Sardos.

Furthermore, a significant hindrance in the curbing of piracy was that it was not perceived as a fundamental threat to the kingdoms. Indeed, while

violence, killing and robbery in principle were extremely reprehensible actions in the Middle Ages, killing especially could be pardoned if the accused could prove that they were defending their honour, privileges and goods. In addition, the custom of debt recovery by private means and the difficulties in proving piracy and running a successful court case meant that most cases of piracy revolved around the restitution of lost property. The violence was rarely punished. In fact, the kings' dependence on the ports to supply ships for the navies meant that violence in piracy cases was mostly pardoned. This is due to the fact that the kings did not want to alienate mariners who supplied naval service, that maritime war had a quasi-legality to it, and that piracy did not constitute a fundamental threat to the kingdom. Thus, there was no Ciceronean condemnation of pirates. In the end, the re-establishment of peace and order was more important to the kings than individual justice. The ultimate losers in these settlements were often the individual victims of piracy, since they, through judicial action, could at best hope for restitution, but sometimes even this was sacrificed by the kings in exchange for the re-establishment of peace. Accordingly, some victims took to private actions to obtain justice and restitution and worried about the consequences afterwards, confident that they would be pardoned.

Thus, piracy was, in the end, just as much an act of self-defence and revenge as it was a profit-seeking act. In many ways, it was a pursuit of personal as well collective port ends against commercial rivals. The mariners were criminals in the abstract sense, but they could almost always claim just reprisals as an excuse. It is therefore debatable whether "pirate", in the sense of a criminal sea robber, is an acceptable term at all for these maritime "malefactors". But while pirates perhaps did not exist in the Middle Ages, there certainly was piracy. However, since this practice did not differ significantly from other types of medieval armed conflict, it did not constitute a more severe problem than other armed conflicts, nor was it anymore threatening to the government's control of the kingdom than the nobles' private wars. It was rather an integral part of trade and a way of handling disputes in societies with a low level of government-supplied protection.

APPENDIX ONE

CHRONOLOGY

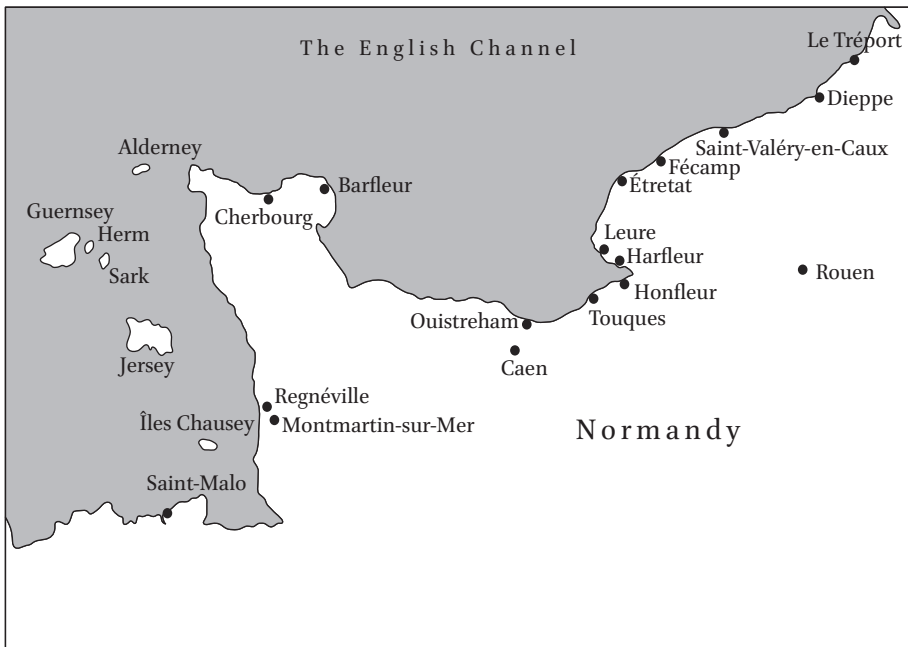
- 1204 The French conquer Normandy.
1216–17 The French invasion of England.
1242–43 War between England and France.
1259 The Treaty of Paris. Anglo-French peace—Henry III recognises Gascony as part of the kingdom of France and Louis IX as his liege lord for Gascony.
1258–65 Baronial uprisings led by Simon de Montfort against the English Crown.
1270 Louis IX dies on crusade in Tunis. Philippe III is crowned king of France.
1272 Death of Henry III of England.
1274 Edward I of England returns to England.
1277 First Anglo-Welsh War.
1282 Second Anglo-Welsh War.
1285 Philippe IV le Bel is crowned king of France.
1292 John Balliol enthroned as king of Scotland.
1294 Philippe Le Bel confiscates Gascony (4 February) in retaliation of Edward I's failure to appear before the *Parlement de Paris*.
The Gascon War (1294–97, truce and negotiations 1297–1303) breaks out.
1296 John Balliol is deposed by the Scots. Edward intervenes for his vassal. Anglo-Scottish War begins.
1297 Guy de Dampierre of Flanders allies with England against France.
Anglo-French Truce of Vyve-Saint-Bavon (1297–1303). Franco-Flemish war continues.
The English are defeated by the Scots at the Battle of Stirling Bridge.
1298 The English defeat the Scots at the Battle of Falkirk.
1302 The French are defeated by Flemings at the Battle of Courtrai.
1303 Anglo-French peace treaty in Paris. Gascony is restored to Edward.
1304 Most of Scotland is subdued by the English and the Scottish nobles swear obedience to Edward.
French victories over the Flemings in the Battles of Zierikzee and Mons-en-Pévèle.
1305 Franco-Flemish peace treaty of Athis.
Robert de Béthune becomes count of Flanders.
1306 The Anglo-French “Process” of Montreuil over piracies.
Scottish rebellion under Robert the Bruce.
1307 Edward I dies on 6 July, Edward II is crowned king of England.

- 1308 English campaign against Scots.
- Marriage of Edward II and Isabelle of France. Anglo-French alliance.
- 1309 The Flemish towns rebel against the French king.
- 1311 English campaign against Scots.
- 1313 Franco-Flemish peace treaty of Arras.
- 1314 Battle of Bannockburn—Scots defeat the English.
- Philippe le Bel dies. Louis X is crowned king of France.
- 1314–15 Tax uprisings in the northern French provinces.
- 1315–17 The Great Famine devastates northern Europe.
- 1315 The French invasion of Flanders stopped by torrential rains.
- English campaign to Scotland.
- 1316 Louis X dies in June. Philippe V becomes king of France and makes peace with Flanders.
- 1318 The Scots capture Berwick-upon-Tweed.
- 1319 English campaign to Scotland.
- Anglo-Scottish truce.
- 1322 Philippe V dies, Charles IV is crowned king of France.
- English campaign to Scotland.
- 1323 Anglo-Flemish peace.
- Anglo-Scottish 30-years truce.
- 1323–28 Rebellion of maritime Flanders against the count of Flanders.
- 1324–27 The War of Saint-Sardos between England and France.
- 1325 Isabella of England goes to France to negotiate truce.
- 1326 September, Isabella and Mortimer invade England.
- 1327 January, Edward II abdicates and dies in September. Edward III is crowned king of England.
- The Scots break the truce with England.
- 1328 Anglo-Scottish peace.
- Charles IV dies, Philippe VI de Valois is crowned king of France.
- The French defeat the Flemings at the Battle of Cassel.
- 1331 Edward III swears homage to Philippe de Valois.
- 1337 The Hundred Years' War begins.

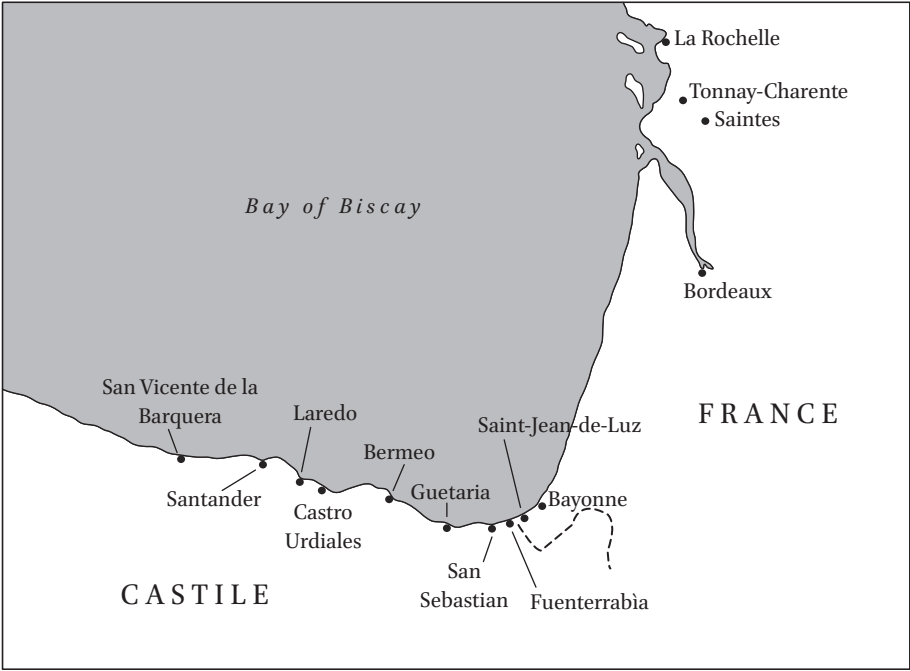
APPENDIX TWO

MAPS

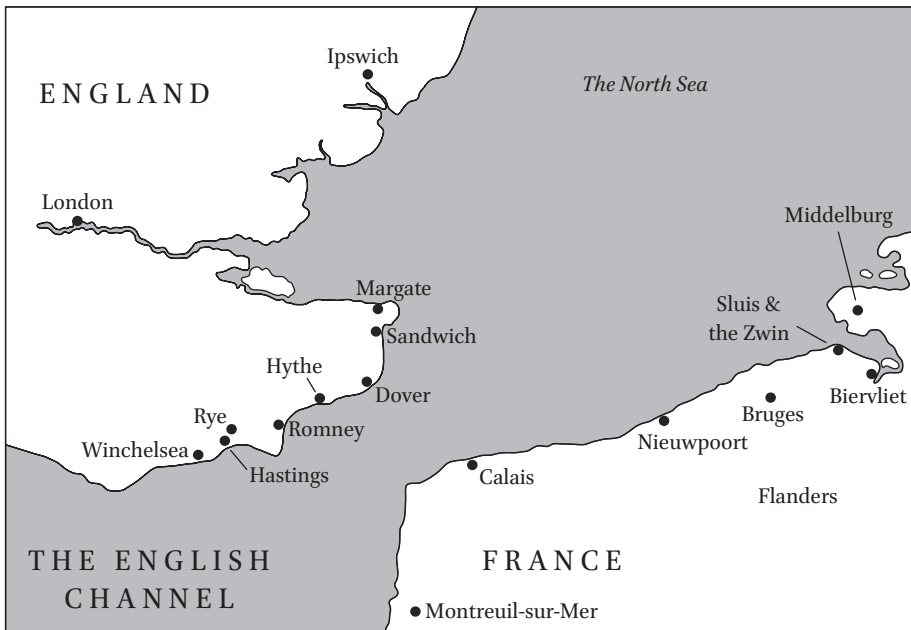
A collection of maps with the primary locations described in the book.



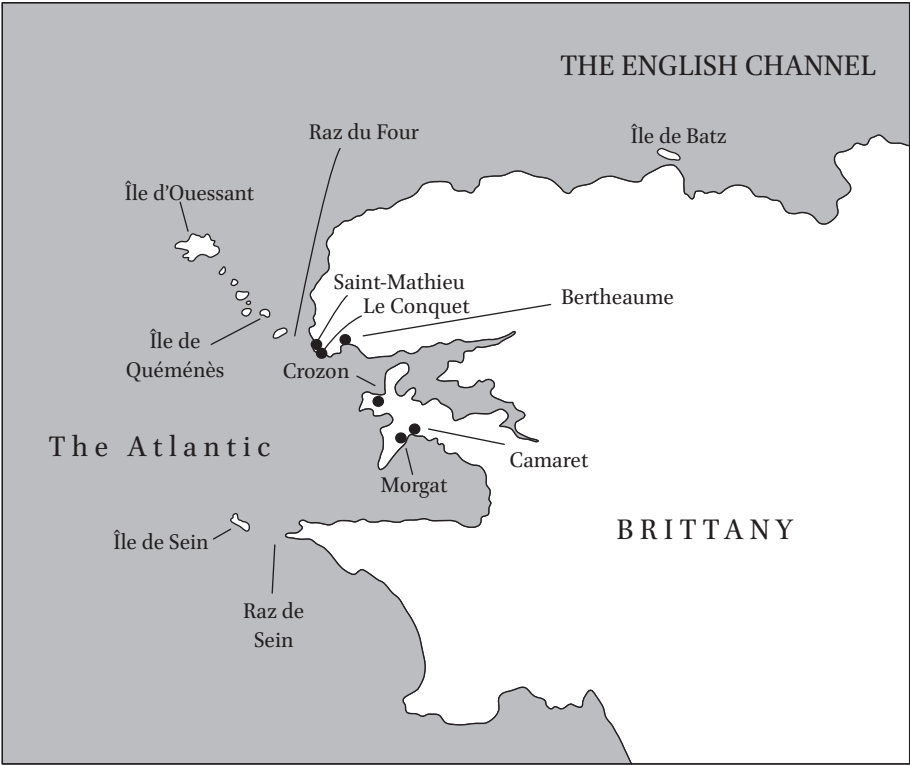
Normandy



Bayonne and the Castilian Ports



The Cinque Ports' Primary Members and Calais



The West Coast of Brittany



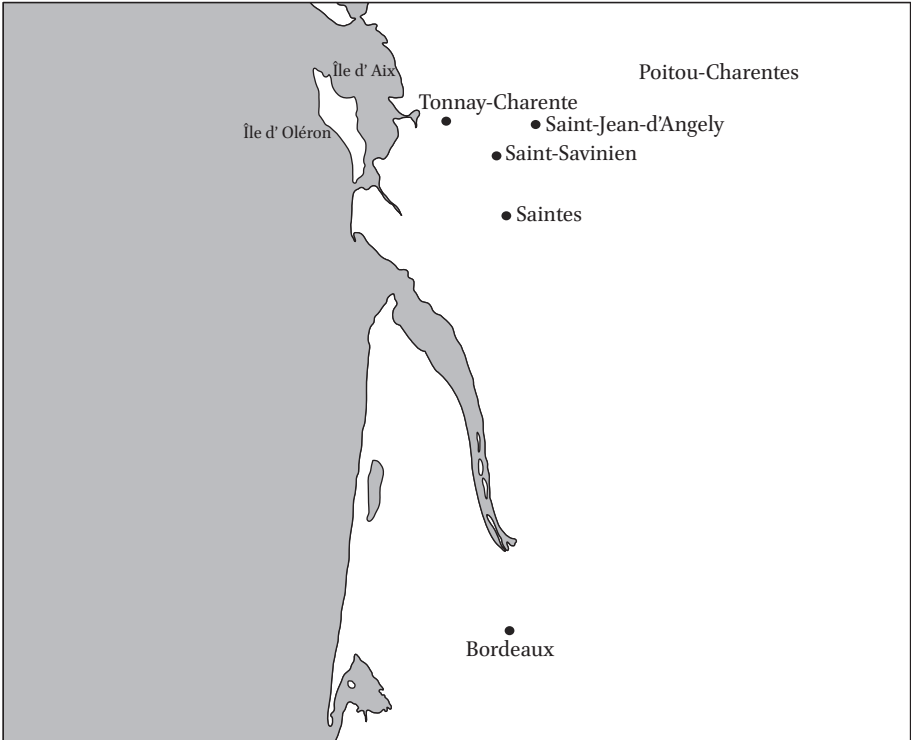
The English East Coast



The English Southwest Coast



The Cinque Ports, Calais and the Flemish Ports



Bordeaux and the Charente Area

APPENDIX THREE

THE SENESCHAL ROSTAND DE SOLER'S REPORT TO EDWARD I ON THE NORMAN DEPREDATIONS IN SAINTONGE IN 1293

There are two almost identical versions of this report in the National Archives, London: C 47/31/5/1 and C 47/27/15/1. Both are somewhat damaged, but the best preserved is C 47/31/5/1. Accordingly, I have used that version for the transcription. However, some parts are missing or are illegible, and I have used the C 47/27/15/1 to complete the transcription. Only once have I digressed from the C 47/31/5/1. This has been marked in a note. Variations are in the footnotes, and illegible words or passages have been marked with [...].

I have retained the original punctuation as far as possible. The starting letters of personal names and place names have been put in capitals, however.

“Excellentissimo principi et domino vero reverendo domino Edwardo dei gratia Regi Anglie domino Hibernie et Duci Aquitanie salutem Rostandus de Soler seneschallus Xantonie se ipsum ad pedes regis maiestatis ut prosperat sibi vota sucessus [...] ad [...] de mandato vestro per[...] michi facto de excessibus iniuriis et violentiis factis in terra [...] Xantoniensi vobis et gentibus vestris Angliis et aliis personis per Normannos ab inicio defensionis novissime[...] inter [...] et [...] pro [...] quorum facta excessus a violentia perpetrata inferans anotan-
tur quorum transcriptum domino [...] vel magistro Petro Aymerici clericis vestris misi Parisius secundum mandatum vestrum [...] predictas per presentiam petitionem.

Primo venerunt in prioratu Monastici Novi¹ prope Sanctum Anianum² qui est de obedientia iusticia et superioritate vostra in terra Xantoniensis, Gaufridus Gossa magister navis vocate Larosa de Leura³ Godefredus Cormean magister cuiusdam navis de Berflers et Nicolas de la Mere magister cuiusdam navis de Berflers⁴ quarum nautum nomina non potui invenire cum decem et novem aliis Normanniis armatis videlicet actonis⁵ bacenetis ensibus balistis et aliis armaturis et in dicto prioratu intraverunt et de priore dicti loci per minas et verba iniuriosa habuerunt violenter contra voluntatem ipsius prioris unum sextarium bladi et duos pethesos⁶ que secum portaverunt

¹ Montier Neuf.

² Saint Agnant.

³ La Rose de Leure.

⁴ Barfleur.

⁵ Haketon. A light armour.

⁶ “Petasos”?

Item ipsi malefactores vi rapuerunt et amoverunt quidam monacho Sola... Sancti Georgii de Esseron⁷ in dicto prioratu suam coram qua... gebatur et bursam suam in qua erat trigenti solidi turonensis et amplius que etiam secum portaverunt

Item predicti malefactores posuerunt quendam magnum cuttellum ad gurges cuiusdam veteris monachi dicti prioratus ac si vellent ipsum interficere qui audebat contradicere rapinis et violentiis quas faciebant in dicto prioratu

Item rapuerunt et secum portaverunt de dicto prioratu unam ballistam et bauldrierium quos in dicto prioratu invenerunt et voluerunt interficere quondam servitorem dicti prioris nisi fugisset quia ausus fuit petere dictam balistam

Item cum quidam monachus dicti prioratus veniret ad ipsum prioratum obviavit ipsis malefactoribus quem ipsi malefactores suis vestibus exuere voluerunt et perquisierunt bursam suam et etiam in braccis suis invenerunt sex oboles(?) tantum in bursa dicti monachi quas rapuerunt et secum portaverunt

Item predicti malefactores intraverunt alia die in dicto prioratu manasteri Novi et invenientes dictum priorem ceperunt ipsum inter se et praeceperunt eidem quod redderet eisdem Robinum Anglicum Sancti Aniani et quosdam alios anglicos quos ipse receperat et reposuerat in dicto prioratu qui respondit quod dictus Robinus propter metum ipsorum Normannorum forte fugerat ad dictum locum et ibi per aliquos dies fuerat tamen recesserat de dicto prioratu et tunc iuverunt ad domum dicti Robino et quesiverunt domum suam utrum ipsum possent invenire quo non invento rapuerunt de domo predicti Robini barellis cal... [...] et alias mercaturas dicti Robini que omnia secum portaverunt et camisiam ancille dicti Robino rapuerunt et portaverunt. Et hec facta fuerunt circa Octavas festi Pasche proximi preteriti anno domini M CC nonagesimo tertio.

Item predicti Nicolas de la Mere cum multis aliis Normanniis complicitibus suis intraverunt per [...] in domo Gyletini Ulbaudi in terra vestra Xanctoniensi et quandam arcam ipsius Guillermi(!) fregerunt de qua extraxerunt unum monile et quandam annullum argentos panes caseos et alia que omnia secum portaverunt.

Item ille Nicolas de la Mere et suis complicitibus armati intraverunt in prioratu de Podio [...] in terra vestra existentes et ceperunt per violentiam de [...] dicti prioratus bona [...] quem secum portauerunt [...] fuerint cum dicto priore contra voluntatem suam.

Item predictus Nicolas de la Mere fuit et suis complicitibus Normanniis armati intraverunt domino Guillermi(?) Begandi(?) huius [...] et eis rapuerunt duodecim [...] quos habebat in bursa quid plures [...] ipsos duodecim denarii parisis.

Item et [...] fuerit intra predictum festum Pasche et sequentem [...]

Item venerunt plures Normanni usque ad viginti et amplius armati loricis batonis et sagittis ensibus et aliis [...] ad domum Rectoris ecclesie Sancti Nazarii⁸ prope Subisiam⁹ que est de obediencia et superioritate vestra die domonica quindem Pasche proximo preterito et cum intrassent domum dicti presbiteri

⁷ Unknown location. Possibly Saint-Georges-des-Coteaux.

⁸ Saint-Nazaire-sur-Charante.

⁹ Soubise.

ipse presbiter eos ad prandium invitavit et dedit eis panem vinum caseum et alia cibaria que tunc habebat parata et cum pransi fuerunt dictus presbiter credens quod ipsi recederent exuere domum suam et cum exisset malefactores ceperunt capones et galinis quos capere potuerunt et sic cum dictis galinis et capunibus recesserunt

Item ipsi [...] cum multis aliis armati iterum ad domum dicti presbiteri venerunt die martis sequente post quindenam Pasche [...] dicto presbitero rapuerunt et ceperunt de domo dicti presbiteri omnes galinas capones anseres et porcellos que dictus presbiter habat in domo sua nec unum caponem vel galinam dimiserunt et secum premissa portaverunt

Item die Jovis proxima post quindenam Paschi venerunt iterum alii malefactores Normanni non illi qui supra venerunt usque ad quartuor decim [...] et cum dictus presbiter sensisset ipsos venientes absentavit se timens de malicia eorumdem et resecauit cum magnas barros prout melius potuit ostium camere sue et exivit per quandam fenestram et fugit in viridarium suum et intravenientes ipsi malefactores in domum dicti presbiteri petierunt ab ancilla sua ubi erat dictus presbiter que respondit quod nesciebat et statim venientes ad ostium camere dicti presbiteri fregerunt dictum ostium et ibidem intraverunt et fregerunt quandam forcerium de quo quemdam annulum aureum cum bono lapide precioso valore centum solidorum et quedam alia jocalia argenta rapuerunt ceperunt et portaverunt et etiam cartas memoralia et alias litteras in dicto forcerio existentes [...] ceperunt et portaverunt et cum ipsi hoc fecissent intrantes viridarium dictum presbiterum invenerunt et arcubus et ensibus et sagitiis super positis venerunt maliciose contra ipsum et ipsum tanquam latronem ceperunt et captum in sua camera adduxerunt que eum inter ipsos malis suis gradibus sedere fecerunt quo sedente preceperunt ei quod aperiret arcas suas et antequam posset respondere [...] stupefactus aliqui ex ipsis dictas arcas statim frangere voluerit cum securibus et aliis ferramentis que ibidem invenerunt et sic [...] oportuit miserimo presbitero arcas suas aperire quibus apertis ipsi raptores ceperunt sextaginta et decem solidos et amplius lintheamina robas et vestes ipsius presbiteri et vestimenta illa que pueri receperunt in baptismia et multa alia bona ipsius presbiteri que erant in dictis arcis [...] et portauerunt

Item rapuerunt et secum portaverunt predicti raptores de domo ipsius presbiteri multa ferramenta et bonos videlicet ferreos ligones¹⁰ et martellos et cutellos ferreos et quandam furcam ferream et alia quem[...] voluerunt et in recessu¹¹ [...] dicto presbitero et perceperunt quod eisdem centum libras turonensis mutaret alioquin sciret se condemnari sententia capitali postmodum [...] vero primo die maii sequentis venerunt ad domum dicti presbiteri decem Normanni alii quam predicti [...] presbiter eos videret intrantes ipsos plus per timore quam pro dilectione motus ad prandium invitavit et eisdem vini [...] clara et rubea et clarea que tunc habebat parata dedit eis quibus sic pransis ipsi ducentes dictum

¹⁰ "videlicet(?) ferreos(?) ligones(?)," from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

¹¹ "in recessu," from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

presbiterum [...] requisierunt cum¹² quod mutaret vel daret eis viginti librarum turonensis alioquin ipsum capite privarent et ignem ponerent [...] domo suo [...] responsavit quod¹³ denarios non habebat quia alii Normanni qui predicto die Jovis venerunt ceperant omnia bona [...] et secum recesserunt viros(?) extra villam¹⁴ ad crucem ville et ibidem remanserunt et residentes ibidem dicto presbitero mandaverunt per quendam¹⁵ [...] ipsi Normanni¹⁶ reneverunt ad dictam villam Sancti Nazarii cum tabardis in brachii involutis et cum [...] domum dicti presbiteri [...] intraverunt et inveniunt dictum presbiterium a quendam clericum extravenum qui ibidem venerit¹⁷ [...] pro ipso presbitero visitando eidem clerico quendam ensem quem portabat subtus super secum amoverunt et postea [...] ipsam violentiam [...] ipsum vestribus suis quibus inductus erat exuere voluerunt quem cum ita exuerunt gentes que viderunt dictum factum clamaverunt erunt aus[...]entia cui clamore venerunt gentes de patria et ipsos malefactores fugaverunt et aliquos ex ipsis [...] vulnerunt In Crastino venerunt ad dictam villam centum quinquaginta vel plures de dictis Normannis armatis Lanceis balistis ensibus et aliis diversis armatis et domum dicti presbiteri intraverunt et decem tonellos vini boni et puri fregerunt et tirculos(?) tiderunt(?) et totum vinum ad terram fuderunt necnon plures alios tonellos grossos archas tabellas bacinetos et omnia utensilia et superlectulia domus dicti presbiteri et ruperunt fregerunt et penitus destruxerunt quod plura quod detestabile est sacrilegium committentes portas ecclesia sue fregerunt et archas ipsius ecclesiae aperientes frangentes monumentis et ornamentis ecclesiasticis ut pote(?) mappis altaris et aliis ornamentis ipsam ecclesiam privaverunt et quod deterius et oribile corpus Christi et sanctam eucharistiam ceperunt de dicta ecclesia et luminaria dicte ecclesie et cimbala de clocherio descenderunt et quendam ymaginem beate Mariae Virginis de ecclesia extraxerunt et secum omnia premissa in vituperium Dei et sancte ecclesie et in suarum omniarum dispendium portaverunt et preter hec predictus Gaufridus Gossa magister navis vocati Larosa sancta eucharistia usus fuit ipsam ut dicitur et fama referet corporaliter in sue detrimentum anime corporaliter masticando.

Item post modum quadam alia die venerunt alii malefactores de Normannis predictis ipso presbitero absente de suis partibus que fugerat ad partes alienas propter metum dictorum Normannorum ad domum dicte presbiteri et duos boves arantes et unum rucineum et instrumenta ferrea ad faciendum ostias¹⁸ et plura alia feramenta rapuerunt et secum portaverunt et sic dampnificaverunt ipsum bene usque ad valorem centum quinquaginta librarum nec non in talem statum dictum presbiterum posuerunt quod non habet modo dictus presbiter sustentationem necnon provusionem suam et omnia ista facta fuerunt in terra vestra Xantoniensis.

¹² "requisierunt cum," from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

¹³ "responsavit quod," from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

¹⁴ "et secum recesserunt viros(?) extra villam," from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

¹⁵ "per quendam," from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

¹⁶ TNA C 47/27/15/1 has "statim" instead of "Normanni".

¹⁷ from TNA C 47/27/15/1. This passage is illegible in TNA C 47/31/5/1.

¹⁸ TNA C 47/27/15/1 has "hostias".

Item venerunt [...] malefactores Normanni ad molendinos Prioris de Subisia in vestra terra Xantonensi et ferra seu instrumenta ferrea dictorum molendinorum ceperunt et asportaverunt secum molas dictorum molendinorum ad terram prostraverunt.

Item fuerunt multi malefactores de ipsis Normannis de nocte in domo Johannis Gauteri morantis¹⁹ prope Subisiam in terra vestra et quendam Pethesum et quinquaginta libras parvi linei de ipsa domo contra voluntatem ipsius rapuerunt et secum portaverunt de hominibus ipsorum malefactorum certiorari potuerunt nullo modo.

Item fuerunt multi malefactores de ipsis Normannis in domo domini Arnaldi Boterelli presbiteri de nocte in terra vestra Xantonensi et de domo ipsius presbiteri gallinas capones ex multa alia bona dicti presbiteri rapuerunt et secum portaverunt et dictum presbiterum nudum fugientem et clamantem cum ensibus fugaverunt nomine vero illorum malefactorum penitus ignorantur.

Item ipsi malefactores frugerunt plures tonellos Petri Bernardi de Letelon' mansionis vestre et vinum in dictis tonellis contentum ad terram fuderunt et mayramentum(?) dictorum tonellorum et etiam archas suas tabellas et multa alia bona sua combusserunt ipsum dampnificando usque ad valorem triginta librarum et amplius.

Item rapuerunt et per violentiam amoverunt in una publica terra vestre Xantonensis cuidam homine nomine Guillermo Bardelli tres solidos de bursa sua.

Item rapuerunt cuidam alteri homine nomine Perotus Mercerius septem para caligarum et quedam alias merces suas et quadraginta solidos in pecunia et istud factum fuit per dictum mercatorum expositum Constabulo custodientibus navigium Normannorum qui fecerunt pecuniam tantam et residuum sibi retinuerunt.

Item venerunt de dictis Normannis in domo Johannis de Peilhe et invenientes quondam filiam suam petierunt ab ea ubi erat archa in qua erant denarii dicti patris sui qui dixit quod nesciebat et statim apprehenderunt eam et prostraverunt ad terram et quandam magnam tabulam super eam posuerunt et postea duo ex ipsis super ipsam tabulam sederunt ipsam filiam deprimentes et male tractantes et cum propter huiusmodi oppressionem non possent ab ea scire ubi erant denarii patris cur dimiserunt eam tamen de bonis dicti Johannis que in domo ipsius invenerunt ceperunt et secum portaverunt ad valentiam triginta librarum

Item venerunt multi malefactores de dictis Normannis in villa Sancti Anyani prope Subisiam que movet de feodo vestro et invenientes quandam mulierem tenentem puerum inter brachia sua petierunt ab ea cuius erat dictus puer asserentes ipsum sue filium anglici que dixit quod non erat Immo erat filius suus et cuiusdam viri sui nati de patria et statim unus ex ipsis respondit dicens tu mentiris iste puer non est tuus quia modo tenebas alium puerum inter ulnas tuas et tunc respondit ipsa mulier quod duos pueros habuerat et peperat (sic!) insimul istum et alium et tunc unus ex ipsis irruens inter ipsam mulierem voluit sibi rapere dictum puerum sed ipsa mulier de puero amplexato prostravit se ad terram cum dicto puero clamando quod dictum puerum interficerent volebant

¹⁹ "morantis," omitted in TNA C 47/27/15/1.

Normanni et congregata multitudinem gentium clamorem dicte mulieris ipsi malefactores recesserunt.

Item venerunt apud Mignanes²⁰ in domo cuiusdam boni viri et invenientes ipsum cum quadam sua filia ipsam filiam ceperunt et ipsam carnaliter per violentiam tres vel quatuor ex ipsis cognoserunt in presentia patris sui et quia ipse pater ausus clamare ipsum atrociter verberaverunt et male tractaverunt

Item venerunt ad domum Guillermi Caradelli valeti et invenientes uxorem ipsius valeti eam cognoscere per violentiam carnaliter voluerunt nisi aliqui coadiutores superuenissent qui dictam mulierem defenderunt et eam de manibus eorum liberaverunt quam mulierem postea statim extra patrum feci duci propter timorem ipsorum malefactorum.

Item venerunt in prioratu Sancte Gemma²¹ sex Normanni cum ensibus petentes et querentes Anglicos qui fugerant ibidem et requisierunt gentes dicti prioris quod Anglicos ibidem repositos traderent et libarent eisdem alioquin quod dampna facerent in prioratu predicto.

Item ceperunt capelanum de Cerayo²² mansionarium in terra vestra Xantonensi et captum eum duxerunt apud Sanctum Savinianum²³ in manibus suis et captum tenuerunt quousque fuit per predictos Constabulos Navigii liberatus pro eo autem captus fuit quia se advocavit et mansionarium in terra vestra.

Item die sabati ante festum beati Gregorii proximo preteritum venerunt multi Normanni in Civitate vestra Xantonensi²⁴ cum ensibus succinctes et [...]...tes per dictam civitatem petebant cuius erat illa civitas respondentes gentes dicte civitatis dicebant quod domini Regis Anglie et tunc succuciebant et movebant capita sua postmodum vero petebant qui erant ditiores homines de civitate. Et respondentes gentes nominabant illos qui magis in diuitiis habundebant et inquirentes domos et mansiones ipsorum faciebant signa in domibus eorumdem et aliquas signabant in ostiis et aliquas in fenestis et dixerunt multotiens publice per civitatem quod ipsam in vituperium domini Regis Anglie comburent et destruerent accidit autem die Jovis sequente ante dictum festum Sancti Georgii quod plures Normanni venerunt ad dictam civitatem portantes secum aliqui enses ffauchones²⁵ et petierunt domum cuiusdam boni viri mercatoris de civitate Anglici nomine magister Galterus Anglicus qui habet et habuit per longa tempora mansionem in ipsa civitate una cum uxore liberis et familia sua et cum pervenissent domum dicti mercatoris invenerunt ipsam domum clausam et bene reseratam quia ipse mercatore multum timebat de ipsis Normannis pro dampnis et injuriis que et quas aliis inferebant et sederunt ante portam dicte domus et respicientes non viderunt locum per quem intrare possent in dicta domo et tunc accedentes ad ipsam januam sub [...] eam fortiter ac si vellent ipsam frangere quod bene facere temptaverunt hoc videns autem quidam homo de civitate cum

²⁰ Unknown location.

²¹ Sainte-Gemme.

²² Unknown location.

²³ Saint-Savinien.

²⁴ Saintes.

²⁵ Falchion. A heavy one-edged sword.

multis aliis astantibus petiit ab eisdem quid vellebant et respondentes dixerunt quod aportarent pecuniam dicto magistro Galtero quam volebant sibi solvere et tunc respondit eisdem dictus homo quod ipse non erat tunc in domo nec etiam in villa et statim dictam januam magis [...] volentes ibidem intrare si possent et tunc dictus homo dixit eis quod male faciebant quo dicto unus ex ipsis extraxit ensem et voluit ipsum percutere et cum dictus homo videret gladium contra se evaginatum clamavit fugiendo per villam aus murtreros²⁶ Normannos et tunc dicti omnes Normanni illi extraxerunt enses suas propter quod omnis civitas fuit commota et clamabant omnes aus murtreros Normannos. Dicti vero Normanni aliquos de civitate cum ensibus et aliis gladiis percusserunt. Et cum ego predictus Rostandus de Solerio audirem tantum tumultum in civitate misi gentes meas ibidem videre quid hoc erat et venientes dicte gentes meas versus ipsos Normannos invenerunt ipsos cum ensibus fauchonibus et aliis gladiis evaginatīs et precipientes eisdem Normannis quod redderent eis dictos enses et ceteros gladios dixerunt quod non facerent Immo fuerunt in defensa et voluerunt vulnerare gentes meas et tunc gentes mei evaginatīs gladiis suis ceperunt octo de ipsis Normannis quorum duos vulneraverunt quia aliter capi non potuerunt et ipsos ad me in castro Xantonensi captos adduxerunt ceteri vero fugerunt et cum ego dictus Rostandus viderem duos ex ipsis vulneratos statim feci perquiri cirugicos et preparare plagas eorum et inquisita veritate qui ex ipsis erant in culpa dicti facti inveni ipsos duos vulneratos culpabiles quos in prisiona retinui in Castro Xantonensi et sex alios eorum consocios quos cum parva culpa inveni liberavi et eis reddi feci enses suos et alia bona sua in crastinum vero facta congregatione et conspiratione inter ipsos et alios Normannos navigii qui erant apud Sanctum Savinianum inter se ordinaverunt quod cum quatuor milibus armatorum venirent aggredi civitatem et ipsam igni submittere et totaliter destruere et gentes interficere si possent que conspiratio per aliquos amicos dicte civitatis fuit michi et burgensibus dicte civitatis nunciata et tunc omnes de civitate perteriti et stupefacti fugerunt huc et illuc cum bonis suis cum non haberent arma cum quibus se defendere possent. Ego vero Rostandus accidi [...] et quod... tebatur feci muniri et dictum castrum prout melius potui licet parum vel quasi nichil invenirem ad defensionem castri si dictus casus accidisset et porta Civitatis claudi et custodiri cum magni expensis ipsa vero die veneris semper²⁷ expectante adventum et insultum dictorum Normannorum miserunt ad me Constabuli navigii predicti plures servitores domini Regis Francie Normannos et maiores magistros navigii post ipsos Constabulos et venerunt ad januam castrum Xantonensem requierentes januam quod permitteret eos intrare in castro quia mecum volebant loqui ex parte domini Regis Francie et dictorum Constabulorum quos precepi in castum recipere et cum intrassent [...] ²⁸ ex ipsis nomine C... [...] ²⁹ domini Regis fuit [...] ³⁰ me ex parte domini Regis Francie constabularie custodientii navigii Normannorum quod duos [...]

²⁶ "Aux meurtres!"

²⁷ TNA C 47/27 "semper me".

²⁸ Illegible in TNA C 47/31 and omitted in TNA C 47/27/15/1.

²⁹ Illegible in TNA C 47/31 and omitted in TNA C 47/27/15/1.

³⁰ Illegible in TNA C 47/31 and omitted in TNA C 47/27/15/1.

quos captos tenebam in castro Xantonensi qui ad partes Xantonensi se venebant sub gardia et protectione domini Regis Ffrancie eis redderem et a dictis prisiona³¹ liberarem cum cognitione ipsos si in aliquem commissem spectaret in mediate ad dominum Regem Ffrancie vel ad gardiatores dicti navigii ratione gardie antedictae Ego vero vocatu meum Consilium venerabili Decano et pluribus canonibus Xantonensibus multis hominibus ligeis vestris nobilibus et alii meliori predictae civium Xantonensi retuli et explicavi eisdem servientibus causam quare dicti Normanni capti fuerant et arrestati et modum captionis et totum processum superius nominatum et dixi quod vos non suberratis nec gentes vestros suberrant mandato alicuius iuditis vel delegati curie Ffrancie nisi ipsis expresse habebant certum mandatum a dicta curia et requisivi ab eisdem mandatum exhiberi si super hoc haberent quod non habebant plures ratione efficaces propositii³² quare dictos captos liberare non tenebar nec propter requestam predictam ipsos volui liberare. Et audientes quod dictos captos liberare nolebam statim perceperunt michi³³ ex parte [...] domini Regis Ffrancie sub incurrimto bonorum meorum quod eisdem dictos captos liberarem cuius precepto nullatenus voluit obedire dixi tamen dicti presentibus³⁴ ne forte viderent latrones fuisse pensari vel maliciose contra ipsos Normannos quod peius vel similitie fecissem personis aliis si taliter volnerassent³⁵ quod ob reverentiam dicti domini Regis Ffrancie paratus eram eos liberare hac Conditione adiecta et et protestatione expresse facta quod ipsos malefactores totaliter tenerent et imprisonarent quod de violentii et excessibus commissis in dicta civitate possent vobis et vestris gentibus et passis iniuriam satisfactione facere³⁶ et etiam emendare quotiens essent super hoc requisiti et cum dicti capti fuerant liberati sub conditione predicta

Item rapuerunt et secum portaverunt quindam de Normannis predictis violententer de bonis Arnaldi Bartholomei mansionaris in terra vestra Xantonensi tam in bladis quam panineis et rebus aliis ad estimationem ad decem librarum turonensium

Item de bonis Bartholomei de Fonte Regnialde ad valorem sexta librarum et ulterius et voluerunt ipsum interficere et exuerunt ipsum vestibus suis

Item habuerunt rapuerunt et secum portaverunt de bonis Johannis Chant per violentiam ad estimatione sextaginta solidorum et amplius.

Item habuerunt rapuerunt et secum portaverunt domini Guyllermi de Paugues duo dolea vini et ultra fuderunt ad terram maiorem partem alterius tonelli et hoc fecerunt de nocte.

Item habuerunt per violentiam de bonis Prioris de Subisia tam in blado vino denariis ciphis argenteis pannis et rebus aliis ad valorem quatuor decim librarum.

³¹ "prisones," in TNA C 47/27/15/1.

³² TNA C 47/31/5/1 has "eorum [...]" Ffrancie propter sui" but this makes less sense than "ratione efficaces propositii" in TNA C 47/27/15/1. Thus, I have preferred this reading.

³³ TNA C 47/27/15/1 has "in" not "michi".

³⁴ Almost illegible.

³⁵ TNA C 47/27/15/1 has "deliquissent", not "volnerassent".

³⁶ "facere" omitted in TNA C 47/27/15/1.

Item habuerunt de bonis Petronille Vesuerie duo dolea vini per violentiam et contra voluntatem suam.

Item de bonis Petri Trolli³⁷ in pannis utensilibus et aliis ad valorem vinginti solidorum.

Item de bonis Petri Calibere tam in pethesis blado vino et aliis rebus ad valorem triginta solidorum.

Item de bonis Johannis Bernardi tam in blado vino denariis et rebus aliis ad valeriam decem librarum et amplius ulterius quod fuderunt ad terram vinum dicti Johannis ad estimationem dimidii tonelli.

Item rapuerunt quidam presbitero nomine dominus Hugo Guyllermi octo decim solidos quos habebat in bursa sua et ceperunt eum in publica via³⁸ et eidem multa viturperia fecerunt cum Constabularius navigii fecerunt sibi reddi duo decim solidos et sexta solidos duos retinuerunt.

Item rapuerunt et per violentiam portaverunt de domo Johannis Reginaldi quatuor decim lintheamina et quinque pulvinaria et duo coopertoria furrata pellibus toni coloris et duas mappas meniedeyngnias (sic!) et unam calderiam et unum vestimentum cum quo missa celebratur et fregerunt portam domus sue que omnia estima valere poterant centum solidos

Item rapuerunt et secum portaverunt de domo dictorum Aus Quasbenes (sic!) duodecim costeretros boni vini et decem costeretros boni de reffon(?) et tabulas dicte domus et archas suas fregerunt et exinde duodecim bussellos bladi extraerunt et portaverunt

Item intraverunt in domo Johannis Liore et rapuerunt et secum portaverunt dimidium pethesum et duos agnos.

Item intraverunt et rapuerunt de domo Arnaldi Arguyn duos porcellos et alia bona dicti Johannis ad valorem quadraginta solidos

Item intraverunt et rapuerunt de domo Johannis Ogardi dimidium pethesum et fuderunt ad terram unam tonellum vini alia bona dicti Johannis ceperunt ad valorem decem librarum.

Item cum duo mercatores de Navarre bone persone et divites venirent de Rupella³⁹ apud Burdegalem⁴⁰ progressuri pro suis mercibus⁴¹ et facerent transitum per villam Sancti Saviniani predicti Normanni cum maxima multitudine ipsos mercatores ceperunt credentes ipsos esse Bayonenses et ipsos ceperunt et octo milia Florinorum eisdem in primis rapuerunt et postmodum eos viliter occiderunt et frustarunt [...] eosdem nec mors nec membrorum decisio potuit eis sufficere Immo revera quidam ex ipsis Normannis posuit qui astavit in quadam lancea intestina dictorum mercatorum et portabat ad collum per villam sancti Saviniani dicens quis vult emere Trypes de Bayona ego vendam et quidam alius de ipsis Normannis cepit caput alterius defunctorum et auriculam ipsius cum dentibus coram toto populo masticabat et maximam partem ipsius auriculae de

³⁷ TNA C 47/27/15/1 "Trollii".

³⁸ TNA C 47/27/15/1 "via publica vestra".

³⁹ La Rochelle.

⁴⁰ Bordeaux.

⁴¹ TNA C 47/27/15/1 "mercibus procurand".

capite emulsit et comedit quod inhumaniter fuit factum et pernitiosum exemplo maxime quia constabul' (?) et custodes navigii antedicti presentes in villa et hoc scientes vindicare contempserunt quibus sic peractis membra ipsorum interfectorum postmodum in flumen Carantonis⁴² proieterunt

Item venerunt ad domum Rectoris ecclesie de Agonay⁴³ et super muros clamose dicte domus ascendentes in ipsa domo intrare voluerunt et cum capellanus seu Rector predictus hoc videret venit contra eos petens ab eis quid volebant qui dixerunt quod statim sciret et descenderunt infra dictam clausuram et cum dictus presbiter videret ipsos descendentes fugit in domum suam et portam domus sue cum barris et cum aliis ingeniis prout melius potuit reseravit et insequentes ipsum portas ipsius domus frugerunt et presbiterem predictum quem invenerunt statim ceperunt precipientes eidem quod statim archas suas aperiret quod facere denegavit et frangentes archas de ipsis extraxerunt et rapuerunt undecim libras turonenses, et septem viginti turonenses grossos argenteos et unum tabardum de perso forratum et unum ense et tres ciphos argenteos et duo decim clocheria argentea et multa alia bona ad estimationem quinquaginta librarum.

Item violenter rapuerunt ceperunt et secum portaverunt de domibus personarum infra scriptarum bona que secuntur videlicet de domo Johannis de Airolio quattuor decim denarios et voluerunt portare lectos et cooperturas lectorum suorum et mantellum uxoris sue.

Item de domo dicti Johannis qua quattuor caseos et duas gallinas

Item de domo Benedicti Taste Crispe unum capriolum et duas gallinas.

Item de domo Petri Suttoris duas gallinas.

Item de domo dictorum Elyars quartam partem unius pethesi

Item de Prioratu de Romegus⁴⁴ quattuor tibias porcii

Item de domo Laurentis de Boyes unum annulum argenteum

Item de domo Aymerici Vignerii unum supertunica [...] quattuor Lintheamina

Item de Gaufrido Ossendi unam gallinam de Gaufrido Achardi unam gallinam de Vigerio de Melay unum capriolum de Arnaldi prepositi unum agnum et unum porcellum et quattuor caseos et quartam parte unius Pethesi

Item de Arnaldo Granerii duas gallinas et duos caseos et de domo dicte Alaseguine ceperunt vinum quantum ibi invenirunt ad estimationem decem corperellorum et illud consumpserunt

Promissa autem omnia et multa alia forefacta comissa fuerunt per dictos Normannos in terra vestra Xantonensi et locus circum vicinis inter festum Pasch' proxime preteritum et sequentem festum Ascensionis Domini prout per relationem et testimonium personarum predictarum inquisitarum et prout fama patria attestatur vero nomina illorum exceptis quibusdam superius nominatis penitus ignorantur nam quidam veniebant una die et alii alia die sic vicissim ne possent discerni ab aliquo vel cognosci.

Datum Xantonis quinto die mensis julii anno Domini mcc nonagesimo tertio."

⁴² The Charente River.

⁴³ Agonnay.

⁴⁴ Romegoux.

APPENDIX FOUR

ANSWER OF THE MEN OF THE CINQUE PORTS AND BAYONNE TO CHARGES OF PIRACY DURING THE MARITIME WAR OF 1292–93

These accounts exist in three almost identical versions in the National Archives, London: C47/27/15/1, C 47/31/5/2 and C 47/31/6. Furthermore, Champollion-Figéac supplied a transcription in *Lettres de rois, reines et autres personnages des Cours de France et d'Angleterre*. However, this transcription is somewhat faulty, and I have felt the need to produce my own transcription based on the best preserved version, C 47/31/5/2. However, since the manuscript is damaged I have occasionally used C47/27/15/1, C 47/31/6 and Champollion's transcription to fill in *lacunae*. Especially, the last lines of both C 47/31/5/2 and C47/27/15/1 are almost illegible. Fortunately the latter part of C 47/31/6 is very well preserved. Thus, to a large extent I have relied on this document for the latter part of the transcription. Variations are in the footnotes.

I have retained the original punctuation as far as possible. The starting letters of personal names and place names have been put in capitals, however.

Ceo sunt les grevaunces et damages ke les Normaunz ount fet a la gent de Rey de Engleterre cest asavoir de Baione des Cinck Portz de Irelaunde et dayleurs del marinage de Engleterre Et le respouns qe les Cinck Portz et les autres de la maryne de vostre seigneurie ont fet sus les choses dount vous les avez chargez.

Adeprismes a Kymenoy¹ es parages de Bretaygne le an de nostre seigneur le Rey xx. En quareme Normaundz occistrent un homme de Bayone a la fonteigne de Kymenoy e apres asailirent la nef Peres de Mouny de Bayone et couperent le mast e robberent la neef e les homes occistrent a leur gref damages de mille livres

Après meysmes ceus Normaunds vindrent a Roaint seur Gironde² et troverent illokes iiii bateaus de Bayone e les decoperent e enfundrerent de sus le ewe et occistrent vi homes de Bayone a terre. Kaunt les outrages desusdiz furent fetz noveles vindrent de ces et Bordeaux as mariners Dengleterre de Irelaunde et de Bayone e mustrerent le outrage et le fet au conestable de Burdeaus Iter Dengolesme e maintenant le conestable fesoit assembler les mariners Dengleterre de Bayone de Irelaunde de Normandie et de Bretaygne qe la furent e la se entrejurerent touz les mestres qe de cel eure en avant nul ne feroit a autre grevaunce ne damage e si nul alast cuntre cel serment touz les autres luy corerent sus taunt qe le trespas feust amende e au partir de Burdeaus les neefs de Engleterre et Bayone alerent es paryes ou eles furent frettés par cinck par sis par quatre sicome eles

¹ Île de Quéménès.

² Royan-sur-Gironde.

furent charges les unes devant les autres apres come gent de pees. A meymes cel heure iiii xx neefs de Normandie demorerent a Burdeaus e se chargerent de vyns e quant les neefs furent charges ne se voloient partir nul de autre mes tantot drece-
ront leur chasteus devant et derere e chastels sus le mast et leur baneres si come
gent de guere e en cele manere issirent hors de Girounde ensemble e singlerent
devant La Rochele e troverent en un leu que est apele La Pertuis de Antioche une
neef de Bayone charge de dras et des autres marchandises venantz de Fflaundres
la dite neef asailirent e pristrent les mariners e les marchans de Burdeaus e de
Bayone occistrent les biens pristrent e robberent a leur gref damage de mmm
livres e la neef enfundrerent en la mer.

A pres meysmes le an auaundit les Normandz trouerent gent de Baione a la
tour de Vilein e occistrent xx homes a pres meismes lan meismes ceus Normandz
ala Chaere en la Bay³ occistrent xii homes de Cinck Portz et de Irlaunde.

En meysmes lan une neef de Irelaunde de la vile de Ros vint chargee de quirs et
de leynes a la vile de Roan⁴ en Normandie e le mestre de la nef vendi en miesmes
la vile les quirs e les leynes pur vc livres e quaunt il sigla vers sun pays Normandz
li asailierent devaunt Chereburgh e la neef pristrent e occistrent les maryners e
un garcoun pendirent a la verge del tref e les cinck cent livres pristrent e mene-
rent la neef en le havene de Caan⁵ a tut le garcoun pendu.

Après en meismes cel an xx après Pasches Normaundz trouerent une neef de
Wycheringe de Suffoxe⁶ la neef asailierent e pristrent les mariners as uns coupe-
rent les oreyles e les occistrent trestuz e les biens de la neef roberent iiii c livres
desterlynges e la neef enfunderent en la mer.

En meismes cel an en la mer coudre Fescaump Normaundz trouerent une
neef de Irelaunde de la vile de Drogheda la nef [...] e les mariners e les mar-
chauns occistrent e leur biens robberent e enporterent a la mountance de v c
livres e de plus.

A pres en meismes lan e en cele sesoun gent de Wynchelese e de Hastynges
vindrent devaunt Diepe en deus neef e fesauntz leur marchandises a tere les Nor-
maundz de meismes la vile de Diepe e pristrent le ii nefs e les biens robberent
a la vailance de v c livres les mariners couperent les piez e les poynz a prez pur
meuz aseurer leur besognes(?)⁸ couperent les testes a la mountaunce de xl homes
qe mariners qe peleryns e les neefs enfundrerent en la mer.

En le an avaundit la gent des Cynck Portz e de Baione e autres de la maryne de
Engleterre et de Irlaunde alierent a Burdeaus a vendenges por charger marchaun-
dement si come il solerent fere et pur co qe il savoient bien qe Normaundz les
avoyrent maudite qe il lur firent damage les mestres de la maryne de Engleterre
de Baione et de Irelaunde ne se voloyent mye parcharger mes por la dute des

³ Baie de Bourgneuf.

⁴ Rouen.

⁵ Caen.

⁶ Wichering(?), Suffolk.

⁷ Hole in the manuscript, C 4/27/15/1: "pristrent".

⁸ Taken from TNA C 47/27/15/1. The TNA C47/31/5/2 is almost illegible in this part, but it seems to have "losargnes", which makes no sense in the text.

Normaundz ne se chargerent fors qe ala moyte e ensi retournerent a leur damage e al damage del reaume de Engleterre x m livres.

A pres en lan xxi le Rey de Ffraunce envera un son chevalier a Burdeaus e fesoit soner trumpes e la pes fist crier entre la gent le Rey de Ffraunce e la gent de Rey de Engleterre e defendi de par le Rey de Ffraunce seur vye et seur membre et seur forfecture de teres et de chateus qe nul ne fait damage moleste ne grevaunce a la gent del Reaume de Engleterre, de Irelaunde ne de Baion et meismes cel hure seigneur Edmond vostre cher frere fu a la curt de Ffraunce e entendy coment la pees fu comaunde par quoi il maunda a sire Estevene de Penecestre nostre gardein qe il entendi qe vos gens de la maryne de Engleterre et de Bayone et de Irelaunde poient seyrement aler a Burdeus e ayleurs en le poer de Ffraunce fesauns leur marchandises ausi come il soloient fere e seur cele aseurte votre gent de la maryne de Baione et de Engleterre et de Irelaunde firent alerent a leur marchandises fesaunt a Burdeaus e ayleurs come gent de pees et en la seurte auaundite e en la pees crie vostre gent de la marine de Baione et de Engleterre et de Irelaunde furent a Burdeaus por charger et normaundz avoient ceo entendu firent une flote de iii c neefs et de plus e partirent la flote en trois cest asaver a leysle de Baas⁹ une partie, la seconde a Seint Maheu,¹⁰ la tertre a Penmarc¹¹ quaut les neefs charges retournerent vers lostel la ou eles estoyent frettes e si come les dites neefs vindrent come ceus qe entendirent estre en pees la flote des Normaundz auaundite le neefs de vostre realme et de Baione et de Irelaunde asailirent feluneusement e encountre le auaundite pees crie lxx neefs pristrent si come les neefs vindrent par v, par vi, par x les biens et les chateus robberent, les marchaunts et les mariners occistrent e des neefs fesoient leurs volunte e ceo damage leur firent a la montance de xx m livres desterlings e de plus sanz la gent mortz. Encore de dens la auaundite pees cryee a Seint Malou delisl¹² avoient xx neefs de Baione Normaundz pristrent les ii neefs e les biens robberent a la montance de mm livres e pristrent lxx homes et les uns pendirent, e les autres escorcherent e les pendirent par leur quirs de mesme¹³ e pendirent mastins juste les cristians en depit de la cristiente et de vous e de vos homes.

Apres a Lanyom¹⁴ en Bretayne ix neefs de Baione prises et arses par gent de Normaundie a leur damage de vi m livres et les gentz occis.

Apres en lan xxi en quareme prochein passe Normaundz robberent une neef chargee de vins de Aucerre¹⁵ qe furent les vins de Wauter le Taverner de Sandwyz a soun damage de c livres. Normaundz pristrent la neef Adam de Ffulham de Loundres devant Somme meysmes cel an et la neef robberent de vjj xx livres desterlings en deners comtaunz e les mariners pendirent sur la verge de lur tref e la nef lesserent aler a wreks.

⁹ L'île de Batz.

¹⁰ Saint-Mathieu.

¹¹ Penmarch.

¹² Saint-Malo de l'Isle.

¹³ TNA C 47/31/6 "demene"

¹⁴ Lannion. TNA C 47/27/15/1 "Lanion".

¹⁵ Probably Auxerre.

Après une nef de Sandwyz qui est apelee le Godier fu chargee de vins de la Rochele e vint en lancresom de Glenaunt la vindrent v nefes de Normaundie e pristrent lavaundite nef ove les vins et occistrent xvj homes de vostre port de Sandwyz des damages qe il receurent de lur chateus a la montaunce cc livres et pluis.

Normaundz robberent une nef de Donewyz a Barbeflet¹⁶ de dens le havene e les biens emporterent a la montaunce de c livres et jii homes occis.

Sire totes ces angoisses e grevaunces nous avaunteditz avoms receu par la gent de Normaundie a leur tort a ki de rien ne avons trespasse car touz iours nostre gardein¹⁷ nous defendi de par vous qe nous ne feisuns damage ne grevaunce a la gent du Roy de Ffraunce mes vos gentz dessus ditz avoient mestier de aler a leur marchaundises au Reks¹⁸ es partyes de Burdeaus et se purvirent de aler enseble enterement come gentz de peis e garniz pur dute des Normaundz en aventure si ascune gentz les voleient asailer qe eus se puissent defendre et garder de peril e de tous damages come devaunt avoyent recu et cest enterement e en cele manere partirent de Portesmutz lendemein del iour Saint George qe passe est e siglerent taunt a Saint Maheu en Bretagne e en celes parties demorerent qe avant ne poeyent aler par defaute de vent et a meismes cel heure¹⁹ la navie de Normaundie fust assemblee a la Rivere de Charaunte au pount de Tauney²⁰ e la se chargerent des vins chescune neef la meite²¹ de son charge por ceo qe il volerent²² aler legerement pur grever vos gentz de la navie de Engleterre et de Baione et de Irelaunde les queus furent en la costere de Bretaygne, e les Normaundz bien le savoient Normaundz se hastirent taunt come il poeyent de issir hors de la Rivere de Charaunte et si tost come Normaundz furent hors de la Rivere il avoyent vent a suthes²³ de aler a la costere de Bretaygne la ou vos gentz furent aukres e la le vendredi prochain devaunt la Pentecoste qe passe est en cest an vindrent Normaundz ove cc²⁴ neefs bien eskipees de gent de armes chasteus hordys devaunt e derere, chasteus au somet de chescun mast banere despleis de ruge cendeal²⁵ chescun banere de ii aunes de large et xxx aunes de long lesqueles banere sount apele baucens et la gent de Engleterre les apeles stremeres e celes baneres signifient mort saunz remede et mortele guere en touz les lious ou mariners sount et en cele fourme et en cele manere Normaundz vindrent sur vos gentz e les asailirent ffeluneusement en cuntre la pees avaunt crie vos gentz se defendirent e Deu par sa grace lur dona victoyre de leur enemis en eus meismes defendaunt

¹⁶ Biervliet?

¹⁷ The Warden-Constable Stephen de Pencestre.

¹⁸ Unknown location.

¹⁹ TNA C 47/31/6 "cele heure".

²⁰ Tonnay Charente.

²¹ TNA C 47/31/6 "moyte".

²² TNA C 47/31/6 "voloient".

²³ TNA C 47/31/6 "soheit".

²⁴ Based on TNA C 47/31/6. TNA C 47/31/5/2 presumably says c lxxxx, but as the reading of that passage is uncertain, I have used TNA C 47/31/6 where the reading is clear. This passage is illegible in TNA C 47/27/15/2.

²⁵ TNA C 47/31/6 "desploies de rouge sendal".

com ceus qe ne poeyent en autre manere eschure la mort. Et tutes cestes choses sunt fetes par fet de guere comencee et continuee par Normaundz e notories sunt e apertes compasses e fetes felonouissement en contre vostre gentz e de denz pees cries Et pur ceo qe les Normaundz par leur outrage et par leur coupe ount comence e continue la dite guere e ount envaye e asaili vostre gent ove signe de guere mortele cest a saver del dit baucans e vostre gent ount fet ceo quil ount fet en eus defendenz si come il est dit par desus. Nous dioms par les choses e resons desus dites qe nous ne sumes tenu fere restitucions ne amende si nule chose eit este fete, ou prise par nous en la dire guere kar il est usage et ley de mer qe des choses fetes, ou prises sur mer en guerre meimement ou le dit Baucan seyt leve ne doit estre fete restitutioun ne amende del une partie a le autre qi tele banere leve Cest usage et ley del reaume de Engleterre, qe si home feist une mort ou autre fet semblable en soi defendaunt il nest tenu de ceo ne en tens²⁶ de pees, ne de guerre. Dunt sire vos barouns de Cinck Portz e touz les autres de la marine de vostre reaume de Engleterre e de vostre seigneurie vous prient qe tort ne force ne lour soit fet kar eus serunt touz iours prests de fere et receyvre dreze²⁷ en vostre curt par agard de leur pers countes et barons solom la ley de marinage kaunt deveront e la ou il deveront.

E cher seignur vos barouns de Cink Portz e les autres de la marine²⁸ de Engleterre et de vostre seigneurie vous prient par Deu qil vos plect ke il vos soveygne coment vostre gent des portz et touz les autres de la marine al sire sermentez contre toz qe [...] sil plect qe il vous soveygne coment vous estes sermentez a vostre peuple de tener les a dreiture solom les leys e les custumes et les fraunchises qe vos auncestres Roys de Engleterre ount donee et vous meismes graunte et conferme.

E seit le conseil le Roy bien avise qe si tort ou grevaunce lur soit fet en autre manere cuntre dreit pleus tost qerperont femmes et enfaunz qe il ont e irount puchaser par la mer la ou quideront leur prefere.

Ceo sunt les damages qe les Normaundz ount fait as marchauntz e as bones gentz de Baione estre les autres damages contenus entre les grevaunces fetes as bones gentz Dengleterre mariners e as ditz Bayoneys en comun Cest asaver qe les Normaundz felonousement e sanz reeson. Les queus furent de Vernamle murdrerent e decolerent Gillam Peire de Bardos mestre de une nef de Baione e robberent les biens a la value de iiij m livres de turnoys et de plus.

Item les Normaundz murdrerent felonousement e atort, en Lisle de Bas Garcias Ernaud de Byndos e Peres²⁹ de Lasican e aucuns autres les compaygnuns iesques a x marchauntz e mariners de Baione

²⁶ TNA C 47/31/6 "temps".

²⁷ TNA C 47/31/6 "droit".

²⁸ The TNA C 47/31/6 digresses here. The passage from "marine" to "qil" is absent in that document. Rather it has: "les autres de la marinage vous sount sermentez countre tous qui pourroit vivre et morir et si vous plect qil vous soveigne". After that, it follows the text of TNA C 47/31/5/2 and C 47/27/15.

²⁹ The "Peres" in this latter part of the text are called "Piers" in the C 47/31/6.

Item les Normaundz murdriront felonousement e atort Peres de Fort marin de Baione, e vi de ses compaignons a la Palice en La Rochele

Item les Normaundz pristrent malicieusement Peres Arnaud de la Berne marchaunt e mariner de Baione sanz nul tort qar il avoit fet a Harefleu en Normandie e si li tindrent pris mult longement, pur la quele reson il fesoit custages e despenses a la mountaunce de mil livres de tournoys e puis estre les damages e damagez qil receut

Item les Normaundz si li leverent les ancrs de la neef de Arnaud Remon de Castanos la quele nef fut en ancre en le port de Harefleu et le robberent sun auncre de cele ancre par la quele levee lavandite neef si ala perillant par la mer e si perdit v homes qui estoient en la neef, e si en feust damage a la mountaunce de m livres de turnoys et plus.

Item les Normaundz malicieusement e atort se enancrerent en port de Odierno Piers de Saubiom mestre de une neef de Baione e ses compaignons qi furent en la neef ovesques lui, e les plairerent mortement, e occistrent aucuns de compaignons e ceus qe remistrent vifs pristrent e les mistrent en maveis prisoun e si les firent grever³⁰ e par les queus choses si sunt damagez a la mountaunce de x m livres de turnoys e de puis estre les mortz e les plaiez e les corps qil pristrent

Item les Normaundz si pristrent a Penmark e en la costere de Bretagne deus escarperryes ove le persoun³¹ e les deners e les autres biens qe furent de dens des bones gentz de e de marchauntz de Baione, e si en firent lor volunte atort e a peche, e sanz reeson a la mountaunce de x m livres de turnoys, e de puis.

Item les Normaundz pristrent cuntre reson atort au Boys de La Rochele un selop charge de cire e de cuire e de autres avers de poys de bone gentz de Baione ala mountaunce xxv m livres de turnoys e de puis

Item les Normaundz si pristrent a tort e contre reson une neef de Baione la quele estoit annexe en sauvete en le chay de la Rochele e la boterent hors del avandite chay e si la depescerent e la arcerent en flamme la quele vaust³² v c livres de turnoys e puis.

Item les Normaundz pristrent par lor malice atort en La Rochele Piers de Artigalonga Peres Vidal Dordize et Gillam Arnaud donc pristrent les mestres de iij nefes de Baione e si les detindrent pris sanz reeson mult longement par la quele prisoun si firent coustages e furent damages a la mountaunce de m livres de turnoys

Item les Normaundz si pristrent sanz reeson a grant tort robberent Gillam Arnaud de Saut(?) marchaunt de Baione e ses biens a la mountaunce de mvc livres de turnoys. Les queu biens estoient a La Rochele

Item les Normaundz pristrent e robberent a la Rochele de Peres de Caupec Peres Reymond Corder Jehan de Juzon, Gillam Arnaud de Lagios Peres Arnaud de Josses Arnaud Doran, Reymond de Ffarges Domenion de Luchardz Jehan de Hogarelh Michel de Hogarelh Peres Jehan de Vik Gillam de Tremelet Piers Dorances

³⁰ Uncertain reading.

³¹ Uncertain reading.

³² TNA C 47/31/6 has “comunalmant” after “vaust”.

Piers Arnaud de Lescar e de ascuns austres cyteins³³ de Baione qe avoient custume ala demorer a La Rochele e se sunt fuis por doute e par la malice de Normaundz a la mountance e de damages de v c livres de turnoys e de pluis

Item les Normaundz si vindrent a Saint Bret en Bretagne le mercredi apres le dareine feste de Pentecoste passe e si tuerent et murdrerent illekes Reymund Arnaud de la Forcade marchant de Baione et pristrent ses deners et ses biens et depescerent ses charges et ses lettres et pristrent tous les autres biens qe furent ileck des bone gentz de Baione e userent les vins e firent damage a la mountance de xxx m livres de turnoys

³³ TNA C 47/31/6 “citeseins”.

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